

# EXTENSIONS OF REMARKS

## MEMORANDA OF UNDERSTANDING BETWEEN THE COMMITTEE ON THE JUDICIARY AND THE COMMITTEES ON AGRICULTURE, ENERGY AND COMMERCE, AND WAYS AND MEANS

**HON. JOHN A. BOEHNER**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. BOEHNER. Mr. Speaker, I submit the following memoranda of understanding.

### MEMORANDUM OF UNDERSTANDING

On January 6, 2015, the House agreed to H. Res. 5, establishing the rules of the House for the 114th Congress. Section 2(a)(2)(A) of H. Res. 5 contained a provision adding "criminalization" to the jurisdictional statement of the Committee on the Judiciary.

The Committee on the Judiciary and the Committee on Agriculture jointly acknowledge as the authoritative source of legislative history concerning section 2(a)(2)(A) of H. Res. 5 the description printed in the Congressional Record and submitted by Rules Committee Chair Pete Sessions.

By this memorandum, the committees record their further mutual understandings by providing the following example, which will supplement the statement cited above.

In general, this change is not intended to cover measures that make changes to a regulatory or revenue collection scheme without making changes to the specific conduct that triggers a criminal penalty that is part of the enforcement regime.

For instance, where a statute prohibits unauthorized movement of certain prohibited plants or animals without the proper permit and imposes a criminal sanction for a violation of the permit, a measure which simply makes changes to the permitting process would not fall within the scope of this rules change, even in the case where a criminal penalty applies broadly to the statute in question. It is the conduct of moving the prohibited item, not the permitting process, which gives rise to the Committee on the Judiciary's jurisdictional interest.

This example is intended to be merely illustrative rather than exclusive or exhaustive. Nothing in this memorandum precludes a further agreement between the committees with regard to the implementation of this provision.

BOB GOODLATTE,

*Chair, Committee on the Judiciary.*

K. MICHAEL CONAWAY,

*Chair, Committee on Agriculture.*

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In general, this change is not intended to cover measures that make changes to a regulatory or revenue collection scheme without making changes to the specific conduct that triggers a criminal penalty that is part of the enforcement regime.

For instance, where there is a regulatory statute that prohibits discharge of a pollutant without a permit or in a manner inconsistent with that permit and which imposes a criminal sanction for a violation thereof, and a measure adds another substance to the list of pollutants, that would not fall within the scope of this change. It is the conduct of discharging the pollutant, not the identification of the pollutant, which gives rise to the Committee on the Judiciary's jurisdictional interest.

This example is intended to be merely illustrative rather than exclusive or exhaustive. Nothing in this memorandum precludes a further agreement between the committees with regard to the implementation of this provision.

BOB GOODLATTE,

*Chair, Committee on the Judiciary.*

FRED UPTON,

*Chair, Committee on Energy and Commerce.*

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By this memorandum, the committees record their further mutual understandings by providing the following example, which will supplement the statement cited above.

In general, this change is not intended to cover measures that make changes to a regulatory or revenue collection scheme without making changes to the specific conduct that triggers a criminal penalty that is part of the enforcement regime.

For instance, where a statute prohibits evasion of taxes or tariffs, and imposes a criminal sanction for a violation thereof, a modification of, repeal of, or addition to a substantive provision that is used to determine taxes (and, if applicable, interest) or tariffs owed would not fall within the scope of this rules change because it would not by itself address a specific element relating to its criminal enforcement. It is the conduct of evading taxes or tariffs, not the imposition or calculation of the tax or tariff itself, which gives rise to the Committee on the Judiciary's jurisdictional interest.

This example is intended to be merely illustrative rather than exclusive or exhaustive. Nothing in this memorandum precludes a further agreement between the committees

with regard to the implementation of this provision.

BOB GOODLATTE,

*Chair, Committee on the Judiciary.*

PAUL RYAN,

*Chair, Committee on Ways and Means.*

## RECOGNIZING TENNANT TRUCK LINES FOR ITS PARTICIPATION IN WREATHS ACROSS AMERICA

**HON. CHERI BUSTOS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mrs. BUSTOS. Mr. Speaker, I rise today to recognize the work of Tennant Truck Lines of Colona, Illinois. For the last five years, Tennant Truck Lines has participated in the Wreaths Across America program, which honors veterans by coordinating wreath laying ceremonies throughout all 50 states.

I had the honor of participating in the Wreaths Across America ceremony on December 13, 2014, at the Rock Island National Cemetery, in my home district in Illinois. This was the 10th Wreaths Across America ceremony held at the Cemetery, one of thousands of ceremonies held across the nation.

Tennant Truck Lines played a vital role in transporting wreaths, volunteering their trucks and manpower to move 3,072 wreaths to over 900 veteran ceremonies by December 13. Two trucks from Tennant Truck Lines drove all the way to Arlington National Cemetery, and many more played a vital role in transporting wreaths within the Midwest as they traveled from Maine to California.

Mr. Speaker, I am extremely proud of the work Tennant Truck Lines and CEO Aaron Tennant have done to remember and honor the veterans who bravely served our country. It is my honor to recognize them today.

## "TAX CODE TERMINATION ACT"

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. GOODLATTE. Mr. Speaker, I rise today to re-introduce the "Tax Code Termination Act," legislation that will abolish the Internal Revenue Code by December 31, 2019, and call on Congress to approve a new Federal tax system by July of the same year.

There is no denying that our current tax system has spiraled out of control. Americans devote countless hours each year to comply with the tax code and it is very clear we need tax simplification. Today's tax code is unfair, discourages savings and investment, and is impossibly complex. Businesses and families need relief from uncertainty and the burdensome task of complying with the tax code. However, the problem is Congress won't act on fundamental tax reform unless it is compelled to do so. The Tax Code Termination

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Act will finally force Congress to debate and address fundamental tax reform.

Once the Tax Code Termination Act becomes law, today's oppressive tax code would survive for only four more years, at which time it would expire and be replaced with a new tax code that will be determined by Congress, the President, and the American people. The Tax Code Termination Act will allow us, as a nation, to collectively decide what the new tax system should look like. Having a date-certain to end the current tax code will force the issue to the top of the national agenda, where it will remain until Congress finishes writing the new tax law.

This legislation has gained wide support in past Congresses and had 122 bipartisan co-sponsors in the 113th Congress. In fact, similar legislation has already been passed twice by the House of Representatives, first in 1998 and then in 2000.

Although many questions remain about the best way to reform our tax system, if Congress is forced to address the issue we can create a tax code that is simpler, fairer, and better for our economy than the one we are forced to comply with today. Congress won't reach a consensus on such a contentious issue unless it is forced to do so. The Tax Code Termination Act will force Congress to finally debate and address fundamental tax reform.

America's future partially depends on overcoming the impairment that is our current tax code. There is a widespread consensus that the current system is broken, and keeping it is not in America's best interest. I urge my colleagues to support this legislation and end the broken tax system that exists today and provide a tax code that the American people deserve.

#### STOPPING ABUSIVE STUDENT LOAN COLLECTION PRACTICES IN BANKRUPTCY ACT OF 2015

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. CONYERS. Mr. Speaker, the "Stopping Abusive Student Loan Collection Practices in Bankruptcy Act of 2015" targets ruthless collection tactics employed by some student loan creditors against debtors who have sought bankruptcy relief, as documented by the New York Times in its cover story last year.

Specifically, my legislation bill would empower a bankruptcy judge to award costs and reasonable attorney's fees to a debtor who successfully obtained the discharge of his or her liability for a student loan debt based on undue hardship if: (1) the creditor's position was not substantially justified, and (2) there are no special circumstances that would make such award unjust. The Bankruptcy Code already grants identical authority to a bankruptcy judge to award costs and reasonable attorney's fees to debtor where a creditor requests the determination of dischargeability of a consumer debt based on the allegation that it was fraudulently incurred and the court thereafter finds that the creditor's position was not substantially justified and there are no special circumstances that would make such award unjust.

Although parties typically do and should pay their own attorney's fees in litigation, dischargeability determinations concerning student loan debts present compelling factors that warrant the relief provided by this legislation. Under current bankruptcy law, debtors must meet a very high burden of proof, namely, that repayment of the student loan debt will present an undue hardship on the debtor and the debtor's dependents. The litigation typically requires extensive discovery, trial-like procedures, and legal analysis.

Unfortunately, some student loan debt collectors engage in abusive litigation tactics that exponentially drive up the potential cost of legal representation for a debtor. As a result, debtors, who may legally qualify for the Bankruptcy Code's undue hardship dischargeability exception for student loans, may be unable to obtain such relief because of the potential risk of excessive and unaffordable legal fees that the debtor may have to incur not only to meet the high standard of proof, but also to combat an abusive litigation stance taken by a well-funded adversary.

The "Stopping Abusive Student Loan Collection Practices in Bankruptcy Act of 2015" will help level the playing field for debtors overwhelmed by student loan debts, the repayment of which would present an undue hardship for themselves and their families. It is my hope that should this measure become law, bankruptcy judges will not hesitate to award debtors attorney's fees in appropriate cases of abusive litigation engaged in by student loan creditors.

GOVERNOR JAMES B. EDWARDS  
SERVICE

**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. WILSON of South Carolina. Mr. Speaker, at the Service of Worship Celebrating the Life of James Burrows Edwards at historic St. Philip Episcopal Church of Charleston (American statesman John C. Calhoun is buried in the St. Philips Churchyard), his beloved son-in-law Kenneth B. Wingate, Sr., Esq. delivered the following Reflections.

#### REFLECTIONS

I'm Jim's son-in-law, and I want to reflect on the life of James Burrows Edwards, the Charming Captain of our Ship.

Jim Edwards was a great man, by any possible measure. Webster defines "great" as eminent or excellent. Jim accomplished more in a lifetime than any other 10 people combined. He served the nation in the Merchant Marines as a 17 year-old during World War II, crossing the Atlantic 11 times, carrying equipment and supplies to England, France and Germany, and returning each time with wounded American soldiers. By the end of the war, Jim had ascended in rank from dishwasher to able-bodied seaman to quartermaster. He studied hard while off duty, and ultimately earned his third-mate's license which authorized him to guide ships "of any tonnage, on any waters of the world." And guide ships he did, all of his life.

Jim paid his way through the College of Charleston, working summer jobs such as transporting general cargo to ports of call around Europe, South America, and the Caribbean. Not your typical undergraduate stu-

dent at the College, was he, President McConnell?

Jim married his childhood sweetheart, Ann Darlington, in 1951, though not everyone in her family could see the potential in this young man. Ann's step-grandmother, "Gran" was at home shortly before their wedding. Jim dropped by and asked Gran what she thought of all this commotion. She replied, "I guess it's okay, but Ann sure could do better than that little boy from Rifle Range Road!" Jim said, "I think so, too."

Jim and Ann worked their way through dental school at the University of Louisville. Ann worked for the Red Cross in the hills of Kentucky as a nurse, while Jim ran for and was elected president of the student body in his spare time. These early ventures honed his impressive personal skills, teaching him how to break down barriers, build rapport, pull together a team. Jim also worked odd jobs, such as selling mint juleps at the Kentucky Derby. One year at the Derby, while selling concessions, Jim bet \$6 on Dark Star, a long-shot at odds of 25-1, simply because the horse had trained in South Carolina. Dark Star won the race, and Jim took home a fat purse, and a lesson on long-shot victories.

I don't intend to drag you through each of his fascinating and successful careers in oral surgery, in state politics, in serving on President Reagan's cabinet as Secretary of Energy, and then returning to the Medical University of South Carolina for 17 years as president. You were all there with him and with Ann, his forever first lady, at every memorable and enjoyable step of the way.

Not only was Jim a great man, but far more importantly he was a good man. The Bible only refers to two people, Barnabas and Joseph of Arimathea, as "good." The biblical definition of good is generous, with a willingness to put other's interests above one's own. It's rare to find a great man; it is more rare to find a good man. But it is exceedingly rare to find a great man who is good.

Jim had three specific qualities that endeared him to us all:

First was his HUMOR; that quick wit, often self-deprecating, never vulgar. He loved to tell the true story of being in the hardware store in Moncks Corner, wearing his old hunting clothes, when a woman going up and down the aisles kept staring at him. Finally, she came over and said, "Has anyone ever told you you look like Jim Edwards?" He said, yes, and before he could say anything else, she said, "Makes you mad as hops, doesn't it?"

Even the name of O' Be Joyful, his magnificent home overlooking Charleston harbor is a whimsical, double-entendre. Yes, it's intended to reflect the biblical encouragement to live each moment joyfully. But it's also a reminder of how Jim and Ann got the house. A widow, Kathryn McNulta, owned the home but was reluctant to sell it. Periodically Jim and Ann would go sit with her on the piazza, and she would offer them a drink called an O' Be Joyful—a can of limeade, a can of light rum, a can of dark rum, and the white of an egg. Ann would look at Jim quietly and say, "I can't drink that!" And he said, "You will if you want the house!"

Jim's second endearing quality was his HUMANITY; he had a genuine concern for the well-being of others. He always looked for the best in people, but cast a patient and sympathetic eye when they fell short. His care for others could be seen in his lifelong commitment to improvements in healthcare and in education. One of the landmark pieces of legislation while he was governor was the Education Finance Act, which altered the way funds were distributed to schools across South Carolina. And of course his thirty

years of service as president and then presidential emeritus of his beloved Medical University. He continued fundraising for MUSC literally to the end of his life. After his stroke in 2013, when he could no longer take potential donors out to restaurants, he and Ann would entertain them at home. As recently as three weeks ago, he attended the ribbon-cutting ceremony for the refurbished College of Nursing.

Jim's humanity could be seen in his legendary generosity, as well as his friendliness and hospitality to all. He never met a stranger, never turned down a request for help, and never let race or creed or party affiliation color his love for people. Though he held his Republican ideals closely, he embraced everyone across the aisle. He loved and served with Ronald Reagan, George H. W. Bush, and Strom Thurmond, but he also loved and served with Bob McNair, Rembert Dennis, and Fritz Hollings. He was always collegial, always the statesman.

Finally, Jim will be remembered for his HUMILITY. He never let success go to his head. Though he had many titles (third mate, lieutenant commander, doctor, chairman, senator, governor, secretary, president—in fact, he often joked he couldn't keep a steady job) his favorite title was just plain Jim. His beautiful Limerick Plantation was simply "the farm." His favorite vehicle was always his old truck, which always had a few dents. Though he walked with kings and presidents, and sat with captains of industry and commerce, he never forgot his roots on Rifle Range Road. He often quipped that when you leave office, you go from "who's who" to "who's he?" very quickly. He was never pretentious.

I guess in a word, Jim was a Renaissance man—he could do anything, and do it well. He could repair engines, recite poetry, build furniture, design jewelry, grow luscious vegetables and flowers, win elections, shoot the lights out with a shotgun, navigate by the stars, negotiate a deal, close a sale, cast a vision and recruit a team to transform an institution or a party or a state. And he could make his grandchildren laugh. His "joi de vie" was contagious, and he infected all of us with his charm.

A few months ago, sitting in O' Be Joyful at the magnificent table he built with his own hands, Jim and I talked about what I should say to you today. First he asked me to exhort you in your faith. Jim first placed his trust in Jesus Christ at age 5, sitting on the knee of his grandfather, Joseph Hooker Hieronymus, an itinerant Methodist minister in the hills of eastern Kentucky. Jim always treasured this little Bible given to him by his grandfather at that time, and had this tucked inside a larger Bible when he was sworn in as governor. After Jim's stroke last year, we spent many evenings as a family reading and discussing the parables of Jesus, how we enter, grow, live and finish in the kingdom of God. And finish in faith Jim has done.

Second, he asked me to encourage you, especially Ann, and Jim, and Cathy, and you grandchildren, not to grieve as others do who have no hope. For we believe that Jesus died and rose again, and even so will return one day and will bring with him those who have fallen asleep, and that we will always be together with them who trust Christ and loved his coming. We declare this by the word of the Lord. May it be so, for each of us today.

The Sermon was lovingly delivered by the Right Reverend Dr. C. Fitz Simons Allison.

#### SERMON

Rarely have I had such an encouraging experience as helping to plan this funeral service with the family of Jim Edwards. They knew exactly what they and Jim wanted.

They knew because their Christian faith was continually expressed within their family and at family gatherings. If you want to know what Jim Edwards believed, examine carefully this funeral service. The psalms, hymns, lessons, and prayers, The Old Rugged Cross truly express his faith. They told me right away that Jim's favorite biblical text was Micah 6:6-8.

"And what does the Lord require of you but to do justly, to love mercy, and to walk humbly with your God."

"Doing justly" is enormously difficult. In medicine, when a life is at stake, justice does not allow ineptness, incompetence, carelessness, or sloth. Instead discipline, rigor, warnings, and possibly terminations are needed. Surely Jim had to face such decisions continually in his public life.

Loving mercy seemed to come easily to Jim and many of us have experienced his encouragement that we did not deserve. Mercy is at the heart of all graceful relationships, but inappropriate mercy can lead to inefficiency, poor performance, and sentimentality. Sentimentality is long range cruelty. Good bedside manners are desirable but not at the expense of knowledge and rigorous training. I am sure that Jim faced uncertain and complex issues of mercy. Doing justly and loving mercy can be very difficult and frustrating.

Walking humbly with God is a key to dealing with decisions of justice and mercy, not unlike issues we all face daily. Walking humbly with God is an acknowledgement that our truth is only partial and inadequate. Only God's truth is perfect. My physician father used to say, "Deliver me from people who are certain they are right." Walking humbly with God as expressed by Abraham Lincoln, "with malice toward none; with charity for all; with firmness in the right, as God gives us to see that right."

The humility that is required for the decisions of justice and mercy is clearly expressed by the phrase "as God gives us to see the right." Jim certainly faced many frustrations and difficulties in his leadership. I remember General James Grimsley, when he was President of the Citadel, asking Jim what was the difference between his experience in professional politics and that of academic politics. Jim's answer was that professional politics was Sunday school sin; academic politics was graduate school sin."

Jim's humor was an essential part of his humility. He could laugh at frustration and laugh at himself. He knew something of Christopher Frey's wisdom: "Comedy is an escape, escape not from truth, but from despair, a narrow escape into faith." Walking humbly with God enables us to see the laughableness of human pretension and the joy of knowing and trusting in the benevolent truth beyond ourselves, in God's truth. If I think my opinion is absolute with no higher truth over it, my truth becomes my God. My opinions become dogmas. If I am a doctor there is no check on my view short of the morgue. Or in the case of politics, without humility, we will have stagnation, chaos, or tyranny.

Jim and Ann, the two names come naturally together after 63 years of marriage. A trained nurse and childhood sweetheart, she became a partner in all activities whether politics, administration, fund raising, entertainment, or whatever needed attention. But above all she shares his faith.

Recently Martha and I had lunch with them. Jim's concern for the health and morality of our society was uppermost on his mind. He seemed to sense that absence of humility in these times, and the lack the of "walking with God," the underpinning of our society. The result being society's unbecoming commitment to certainties, about what

is really uncertain, and uncertain about what is really certain.

Cathy and Ken told me that he knew that his favorite text from Micah "do justly, love mercy, and walk humbly with your God" was an ideal that needs the gospel to make it effective. "I am the way the truth and the light." This text is only understood when one realizes that the Christian God is perfect, and we are not. We cannot as sinners stand in his presence. And "no one comes to the father except by me" is not meant to be discourteous to other religions but to express the Christian commitment to the majestic perfection of God. Only by God's word, his only begotten Son, can a Christian stand in his presence.

Our problems were diagnosed years ago by J. B. Phillips in his very short book, *Your God is Too Small*. Jim's God was not a small God but a God before whom we are all sinners. As a sinner himself Jim could have compassion for other sinners and knowing he was a forgiven sinner his life could be lived with compassion for others. This produced the charm and diplomacy so well and widely described in our newspapers.

But the journalists failed to mention that his extraordinary gifts, love and consideration for others, were rooted in his realization that he was a forgiven sinner. It nurtured and influenced all his commendable activities.

Psalm 103, the family's choice, was the fruit of their family devotions in which they recited the Psalm antiphonally. They knew it by heart: "He has not dealt with us according to our sins, nor punished us according to our iniquities." This verse can help us walk humbly with our God.

The Gospel also makes it abundantly clear that Christ has gone to prepare a place for us. Where our goodness falls short, his goodness stands in our stead. The secular dogma, that this world is all there is, in Reinhold Niebuhr's phrase, leaves us bereft of true hope.

The secular hope is that nature is no longer creation revealing the awesome majesty of God but a mere object of random chance without design or purpose. One of the most accomplished and attractive leaders of secular belief is the psychiatrist, Allen Wheelis. In his later years he is now unpersuaded by his earlier attempts to make death a meaningful conclusion rather than a fated inescapable and meaningless end. He now protests: "A symphony has a climax, a poem builds to a burst of meaning but we are unfinished business. No coming together of strands. The game is called because of darkness." The secular hope ends with the dark oblivion of death. This is the unacknowledged cry of the world for a deeper and meaningful hope.

CONGRATULATING LAGOMARCINO'S IN MOLINE, ILLINOIS FOR BEING DESIGNATED AS AN OFFICIAL "ENJOY ILLINOIS: DELICIOUS DESTINATION"

#### HON. CHERI BUSTOS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 6, 2015

Mrs. BUSTOS. Mr. Speaker, I rise today to congratulate Lagomarcino's in Moline, Illinois, for achieving the distinction of an official "Enjoy Illinois: Delicious Destination."

Lagomarcino's became a member of the select group to receive this honor from the Illinois Office of Tourism—one of only 19 restaurants to date. The award recognizes local

restaurants around our state for being beloved destinations for both visitors and locals alike. Lagomarcino's earned this honor because of its long-standing customer services and tasty treats that attract visitors from all over the globe.

Lagomarcino's, a beloved ice cream parlor in downtown Moline, is famous for its hot fudge sundaes, sponge candy, filled chocolate eggs, and hand-dipped cones. The turn-of-the-century parlor features mahogany booths custom built by Moline Furniture Works, Tiffany lamps designed in New York, and the terrazzo floor was installed by Cassini Tile of Rock Island. In 1997, Lagomarcino's expanded and opened a second location in the Village of East Davenport, Iowa, and fans from all over the world can order delectable treats online.

Angelo Lagomarcino, an immigrant from Italy, opened Lagomarcino's Confectionery in Moline in 1908 after obtaining a secret recipe for hot fudge sauce from a traveling salesman in the early 1900s. Against his wife's wishes, he paid \$25 dollars for that recipe—a price that clearly paid off for the restaurant's many, many fans. That same recipe is used today and Lagomarcino's sauce has earned national and international recognition from food editors and culinary magazines.

Mr. Speaker, I again want to congratulate Lagomarcino's for achieving this honored distinction and wish them even more success in the future.

#### HONORING KEN VOGEL

#### HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor San Joaquin County Supervisor Ken Vogel and to thank him for his leadership and dedication to the citizens of San Joaquin County.

Ken Vogel was born in Stockton, California on March 9, 1945, and moved to the Linden/Waterloo area in 1947. Mr. Vogel's family has been in the area since 1852 when his great-grandparents came to the Jackson Valley in Amador County, and in the early 1900s, moved to the Stockton/Lodi area.

Ken graduated from Linden High School in 1963, then went on to receive a BA, MA, and Teaching and Administrative credentials from Fresno State University. He worked as a teacher, vice principal, and principal in the Lodi Unified School District from 1980 until retirement in 2004 but continued as a substitute principal until his election to the San Joaquin County Board of Supervisors.

Ken has had the honor of receiving the Lodi Lodge #256 of Masons Award for Outstanding Professional Service to Students of Public Schools and the John Terry Award from the Lodi School Administrators Association for Outstanding Educator. In 2001, he was named Boss of the Year by the Lodi CSEA group of classified employees.

Ken raises over a hundred acres of walnuts and cherries in the Linden and Farmington areas and has farmed in the area for over 30 years, marketing walnuts and cherries through local companies. In 2004, he received an award from Diamond Walnut as the Outstanding Hartley Walnut Grower of the area

for that year. He has been an active member of the San Joaquin County Cherry Growers Association and a Farm Bureau member for many years and, as a Supervisor, continues to attend Farm Bureau meetings regularly.

Ken's community involvement activities include: Trustee and Past President of the Board of the Linden Unified School District from 1992–2006, Trustee and Vice President of the Board of the Lodi Public Library from 2003–2006, Member and Past Director of the San Joaquin County Farm Bureau, Member of the San Joaquin Farm Bureau Water Committee, Member and Past Director of the Kiwanis of Greater Lodi, Member of the Escalon Kiwanis Club, Member of the Ripon Chamber of Commerce, Member of the Linden Chamber of Commerce, Member of the Linden Athletic Boosters Club, Member of the Friends of the Linden Library, Member of the Morada Area Association, Member of the Stockton Chamber of Commerce, Member of the Lodi Chamber of Commerce, Member of the Clements-Lockeford Chamber of Commerce, Member of the Historical Society of the Germans from Russia, Member of the San Joaquin County Historical Society, Member of the Lockeford Historical Society, Member of the Escalon Historical Society, Member of the Ripon Historical Society, and Member of the Lodi American Legion Post #22. He also served in the United States Army Reserve from 1968–2000 and was honorably discharged with the rank of Captain.

Ken is has always been committed to the economic development of his community, including the protection and expansion of our large agricultural industry. In addition, water has been one of his most focused areas of involvement as a member of the San Joaquin County Board of Supervisors.

Mr. Speaker, please join me in honoring and commending Ken Vogel, San Joaquin County Supervisor, for his numerous years of selfless service to the betterment of our community.

#### IN RECOGNITION OF BOB MERWIN

#### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Ms. SPEIER. Mr. Speaker, I rise to honor Bob Merwin, the Chief Executive Officer of Mills-Peninsula Health Services, who is retiring after a remarkable 27-year-career there and a lifelong career in health care. Bob knew early on that hospital administration would be his future and his passion.

Under his leadership for almost three decades Bob proved what he often said—that he is not afraid of change. He led Mills-Peninsula through major changes and transitions and is leaving it prepared for a long and strong future.

Bob came to Mills-Peninsula in 1987 as the Executive Vice President, rose to Chief Operating Officer and then in 1991 to CEO. One of his biggest and most recent accomplishments was the building and opening of the state-of-the-art Mills-Peninsula Medical Center in 2011. The 241-bed, 450,000 square foot hospital features private rooms with 21st century patient life technology, electronic charting and online capabilities that allow for efficient communication, family sleeping accommodations,

advanced earthquake technology designed to withstand an 8.5 quake, and a top-notch emergency department. It also has its own chef preparing sustainably and locally grown food for patients, staff and for special events for the public.

Looking at the 241-bed hospital today, it is humbling to remember its beginnings. Founded by Elizabeth Mills Reid, the Church of St. Matthew Red Cross Guild opened in San Mateo in 1908 with just six beds. It was later renamed Mills Memorial Hospital. Due to significant growth during the following decades, Peninsula Hospital opened in 1954 in Burlingame. In 1985, Mills and Peninsula merged into Mills-Peninsula Health Services. Bob oversaw the integration of both hospitals. He was also at the helm for the next large merger with Sutter Health System in 1996 striving to further strengthening the system of care.

Under Bob's leadership, Mills-Peninsula developed and opened the first community hospital Breast Center with advanced diagnostic technologies, the Mack E. Mickelson Arthritis Center, the Family Birth Center, the Dorothy E. Schneider Cancer Center, the Women's Center, and a Behavioral Health facility. During the years leading up to national health reform, Bob kept his optimism and focus on building an organization that cares for its community.

In his career and in life, Bob has had a strong partner equally committed to health care. He married to Jean Merwin, a nurse for Sutter Care at Home, in 1999. The two first met in the early 70s when they both worked at Long Beach Community Hospital. Bob went on to earn his Master's Degree in Hospital Administration from UCLA and become the Senior Vice President and Chief Operating Officer at Pacific Presbyterian Medical Center in San Francisco. Jean moved to the Mendocino Coast and worked as an administrator for a non-profit clinic. Nearly 20 years later, Bob and Jean re-connected at a conference on the Mendocino Coast. Between the two of them they have three children, two grandchildren and one great-grandchild.

In their well-deserved retirement, Bob and Jean are looking forward to spending more time with family and pursue their common passion for golf.

Mr. Speaker, I ask the House of Representatives to rise with me to honor Bob Merwin for his remarkable career and dedication to health care. He has built Mills-Peninsula Health Services into an organization that will serve patients, provide jobs and advance our health care system for decades to come.

#### PREVENTING TERMINATION OF UTILITY SERVICES IN BANKRUPTCY ACT OF 2015

#### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. CONYERS. Mr. Speaker, utility companies provide many basic and life-saving services, such as electricity to light our homes, water to drink, and gas to heat our homes. Sometimes, however, individuals, through no fault of their own, struggle to pay for these services often in the face of devastating medical debt, job loss, or economic disruption

caused by divorce. While resorting to bankruptcy provides some relief from financial distress, current law permits utility companies to force these debtors to pay security deposits for continued service even if they were current on their bills before filing for bankruptcy or if they promise to be current on their bills after bankruptcy. Utility companies typically insist that debtors pay at least two months or more of their average bills as a deposit—in addition to requiring that they remain current on their utility bills after bankruptcy—in exchange for the utility continuing to supply service.

The “Preventing Termination of Utility Service in Bankruptcy Act of 2015” corrects this injustice. It provides that if the debtor remains current on his or her utility bills after filing for bankruptcy relief, the debtor should not have to pay a deposit to the utility to continue service.

In Detroit, for example, families across the city have seen their water rates increase by 119% over the past decade. During the same period, the Nation generally and Detroit in particular suffered in the aftermath of a global financial crisis that left one-in-five local residences in foreclosure and sent local unemployment rates skyrocketing.

Fortunately, we are incrementally recovering from the Great Recession of 2008. For those individuals who must seek bankruptcy relief, however, we should ensure that their ability to pay their utility bills going forward is not hindered by unnecessary demands for deposits if these debtors remain current on their payments to these companies.

Terminating a family's access to such life-saving services that keeps the lights on, warms our homes, and ensures that they can bathe, hydrate, and prepare meals is simply wrong if these utility bills are being paid on time.

This legislation is part of a range of solutions that are needed to address the still pervasive adverse impacts of the Great Recession of 2008. I continue to work with my colleagues in Congress, state and federal officials, and my constituents to defend the right to water and protect public health. I will not tolerate the notion that—in the 21st Century, in the wealthiest nation on earth—families should go without access to affordable public water and sanitation services.

#### COMMEMORATING THE CLOSING OF THE ICE CREAM PALACE IN SILVIS, ILLINOIS AFTER 50 YEARS IN BUSINESS

#### HON. CHERI BUSTOS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mrs. BUSTOS. Mr. Speaker, I rise today to recognize the Ice Cream Palace in Silvis, Illinois, owned by Mr. Umberto “Red” Ponce, which closed on December 27th after 50 years of business and service to our community.

The Ice Cream Palace has been a staple for the community of Silvis for the past five decades. Despite its name, Ice Cream Palace is known for serving favorite traditional Mexican cuisine dishes like the popular carne-de-res burritos since 1965. The dishes served come from authentic recipes from Mr. Ponce's mother, Celia Ponce, who was initially a partner in

the business and worked there for the restaurants' first 25 years.

Locals who began frequenting the restaurant as children now bring their own families to enjoy both the food and the close-knit relationships between staff and regulars. Some can even remember the days that the Ice Cream Palace served up chilly treats and say that the great tasting food has not changed a bit over 50 years thanks to Mr. Ponce's loyalty to his mother's original recipes. Locals young and old alike have all expressed sadness for the end of such a long-lasting part of their community. Mr. Ponce is looking forward to spending more time with his children and grandchildren during his retirement and says he will miss the friends he has made over the years in his staff and customers.

Mr. Speaker, I again want to recognize the Ice Cream Palace, and am glad that places like this exist, helping to create traditions and bonds within our communities and families.

#### APPRECIATION OF GOVERNOR JAMES B. EDWARDS

#### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. WILSON of South Carolina. Mr. Speaker, the State newspaper of Columbia, South Carolina, on December 27, 2014, published an article of statements issued upon learning of Governor Edwards' death.

WHAT THEY ARE SAYING ABOUT GOV. EDWARDS

A COLLECTION OF REMARKS AND REMEMBRANCES ABOUT FORMER S.C. GOV. JAMES EDWARDS, WHO PASSED AWAY FRIDAY AT AGE 87:

Glenn McConnell, president of College of Charleston and former S.C. Senate president pro tempore: “As an alumnus of our institution, Gov. Edwards represents the best traits of a College of Charleston education: leadership and a passion for lifelong learning. On a personal note, Gov. Edwards was a mentor and a dear friend to me. He helped launch my career in public service and inspired me, through his tireless and selfless efforts, on how to best serve the people of South Carolina. In every facet of his life, he believed in making things better for others.”

U.S. Sen. Lindsey Graham, R-Seneca: “He was truly one of the most decent men to have ever served as governor of South Carolina. He was a pioneer for the Republican Party and continued to stay involved in party building activities throughout his life.”

U.S. Sen. Tim Scott, R-North Charleston: “Jim was an early mentor of mine as I entered public service, and I am forever thankful for his advice and encouragement. From the dedication of Patriot's Point during his time as governor to his efforts expanding MUSC while serving as president, Gov. Edwards has left an important legacy in our state.”

U.S. Rep. Joe Wilson, R-Springdale: “Dr. Edwards was a tireless stalwart for conservative limited government to expand freedom. In high school, I would visit his dental office for Goldwater materials, in his capacity as Charleston County Republican Chairman. . . . Dr. Edwards' vision of an inclusive Republican Party came to fulfillment this month with the U.S. Senate victory in Lou-

isiana, from his start with no elected statewide Republican officials in the five-state Deep South, and now all statewide officials are Republicans.”

Medical University of South Carolina President David Cole: “With his leadership and vision MUSC started to transform and grow in scope, scale, and quality. As an individual he was universally liked and respected—he had a personality that filled the room—truly he never met anyone that he did not like. I had the privilege of joining the faculty as an assistant professor of surgery in 1994, and from day one he made me feel respected, included, and at times like I quite possibly was his long lost younger brother.”

S.C. Senate President Pro Tempore Hugh Leatherman, R-Florence: “A Palmetto gentleman who sought only the best solutions for his community, state, and nation. I know that the entire Senate of South Carolina joins me in sending our deepest condolences to the Edwards family. The Medical University of South Carolina, South Carolina, and the United States are a better place because of his leadership.”

S.C. Republican Party Chairman Matt Moore: “Gov. Edwards made an incredible mark on South Carolina history. His legacy will live on through the countless lives he touched as governor, dentist and particularly as a man of faith.”

Former congressman and federal judge John Napier: “Jim Edwards was a giant force for good in everything he ever did. A mentor and creator of the modern Republican Party. Pam and I express our deepest sympathy to Anne and the family.”

Rusty DePass, campaign manager of Edwards' 1974 gubernatorial win: “He was laid back, easygoing. He was opinionated, but he did not have a hard edge to him and didn't have a mean bone in his body. And he was the same person in private as he was in public.”

#### IN RECOGNITION OF ROBERT ROSS

#### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Ms. SPEIER. Mr. Speaker, I rise to honor Robert Ross, a successful business owner, exceptional law enforcement officer and dedicated public servant who is retiring from the San Mateo City Council after five years of service. He was the Mayor in 2014 and Deputy Mayor in 2013. Robert is a genuine, hard-working and deeply committed city council member and will truly be missed.

Robert was first elected to the council in 2009 after a 27-year-career as a police officer in San Mateo. His experience in law enforcement made security and sustainability one of his priorities for the city. As a real estate agent for 25 years, Robert also brought substantial business experience to the Council, guiding the city toward financial stability.

While on the Council, Robert served on the City Council Audit and Budget Committee, the City Council Legislative Committee, the Community Development Department Audit Committee, the Grand Boulevard Task Force, the North B Street Improvement Initiative and the Planning Commission. In addition, he was very active in the Association of Bay Area Governments, the League of California Cities, San Mateo County Council of Cities, the San Mateo-Foster City Elementary School Board, the San Mateo Oversight Board, the San

Mateo Union High School District Board, the Sister City Association and the South Bayside Waste Management Authority.

Robert received his Police Officers Standard & Training at the Modesto College Police Academy and his BSBA in Business Administration from the University of Phoenix. He started his law enforcement career as a police officer in Hayward in 1979 and transferred to the San Mateo Police Department in 1981 where he rose through the ranks to Police Lieutenant in 2003. His professionalism and proactive approach have been recognized and he has been commended on numerous occasions. For example, in the late 1980s, then Corporal Ross was in charge of setting up a task force to fight drug crimes in San Mateo. The group became known as "Ross' Raiders" and their effective anti-drug campaign was lauded by the City Council, San Mateo County Board of Supervisors, the District Attorney, the San Mateo County Trial Lawyers Association and the late Congressman Tom Lantos.

Among the many awards Robert received was a Lieutenant's Commendation for proactive policing, the San Carlos/Belmont Exchange Club Officer of the Year Award, Employee of the Quarter by past Police Chief Don Phipps for ongoing leadership and proactive policing, the Trial Lawyers Association's Police Officer of the Year Award, the Peninsula Lions Club's Police Award for outstanding service to the community, the Gordon Joinville Special Merit Award for day-to-day excellence in policing, and the Medal of Honor, the Police Department's highest award for saving a life during a fire.

Whether in his capacity as a city council member, a peace officer, a small business owner or a San Mateo resident, Robert has always seized opportunities to help his community. He has given countless presentations at our schools to help troubled and underprivileged youths find a positive direction in their lives. He has visited homes of at-risk youth gang members during the holidays handing out presents. He has worked with the Peninsula Conflict Resolution Center and the Tongan Interfaith Council to prevent and solve conflicts. He has worked with Samaritan House to assist needy families. He is a member of the San Mateo Lion's Club which supports local and international charities.

It is obvious from this long list of accomplishments and engagements that Robert Ross has a heart of gold and an inexhaustible drive to help others. Because of his vision and commitment, San Mateo is a better place. I feel privileged to count Robert as a friend and colleague and wish him well as he shifts his focus to his personal and family life.

Mr. Speaker, I ask the House of Representatives to rise with me to recognize the lasting contributions Robert Ross has made while serving as Mayor, City Councilmember and law enforcement officer. He will always be a role model and inspiration to his fellow San Mateo residents.

#### THE HOME FORECLOSURE REDUCTION ACT OF 2015

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. CONYERS. Mr. Speaker, I submit the following:

#### SUMMARY

The "Home Foreclosure Reduction Act of 2015" would permit a bankruptcy judge, with respect to certain home mortgages, to reduce the principal amount of such mortgages to the fair market value of the homes securing such indebtedness. My legislation will encourage homeowners to make their mortgage payments and help stem the endless cycle of foreclosures that further depresses home values. It also would authorize the mortgage's repayment period to be extended so that monthly mortgage payments are more affordable. In addition, the bill would allow exorbitant mortgage interest rates to be reduced to a level that will keep the mortgage affordable over the long-term. And, it would authorize the waiver of prepayment penalties and excessive fees. Further, the bill would eliminate hidden fees and unauthorized costs.

This bill addresses a fundamental problem: homeowners in financial distress simply lack the leverage to make mortgage lenders and servicers engage in meaningful settlement negotiations, even when in the interest of all parties. My legislation would empower a homeowner, under certain circumstances, to force his or her lender to modify the terms of the mortgage by allowing the principal amount of the mortgage to be reduced to the home's fair market value. And, the implementation of this measure will not cost taxpayers a single penny.

The "Home Foreclosure Reduction Act of 2015" is identical to H.R. 101 (introduced in the 113th Congress) and H.R. 1587 (introduced in the 112th Congress). It contains similar provisions included in H.R. 1106, which the House passed nearly six years ago. Unfortunately, those provisions were removed in the Senate and not included in the final version of the bill that was subsequently enacted into law.

#### SECTION-BY-SECTION EXPLANATION OF PROVISIONS

*Section 1. Short Title.* Section 1 sets forth the short title of this Act as the "Home Foreclosure Reduction Act of 2015."

*Section 2. Definition.* Bankruptcy Code section 101 defines various terms. Section 2 amends this provision to add a definition of "qualified loan modification," which is defined as a loan modification agreement made in accordance with the guidelines of the Obama Administration's Homeowner Affordability and Stability Plan, as implemented on March 4, 2009 with respect to a loan secured by a senior security interest in the debtor's principal residence. To qualify as such, the agreement must reduce the debtor's mortgage payment (including principal and interest) and payments for various other specified expenses (i.e., real estate taxes, hazard insurance, mortgage insurance premium, homeowners' association dues, ground rent, and special assessments) to a percentage of the debtor's income in accordance with such guidelines. The payment may not include any period of negative amortization and it must fully amortize the outstanding mortgage principal. In addition, the agreement must not require the debtor to pay any fees or charges to obtain the modification. Further, the agreement must permit the debtor to continue to make these payments as if he or she had not filed for bankruptcy relief.

*Section 3. Eligibility for Relief.* Section 3 amends Bankruptcy Code section 109, which specifies the eligibility criteria for filing for bankruptcy relief, in two respects. First, it amends Bankruptcy Code section 109(e), which sets forth secured and unsecured debt limits to establish a debtor's eligibility for relief under chapter 13. Section 3 amends this provision to provide that the computa-

tion of debts does not include the secured or unsecured portions of debts secured by the debtor's principal residence, under certain circumstances. The exception applies if the value of the debtor's principal residence as of the date of the order for relief under chapter 13 is less than the applicable maximum amount of the secured debt limit specified in section 109(e). Alternatively, the exception applies if the debtor's principal residence was sold in foreclosure or the debtor surrendered such residence to the creditor and the value of such residence as of the date of the order for relief under chapter 13 is less than the secured debt limit specified in section 109(e). This amendment is not intended to create personal liability on a debt if there would not otherwise be personal liability on such debt.

Second, section 3 amends Bankruptcy Code section 109(h), which requires a debtor to receive credit counseling within the 180-day period prior to filing for bankruptcy relief, with limited exception. Section 3 amends this provision to allow a chapter 13 debtor to satisfy this requirement within 30 days after filing for bankruptcy relief if he or she submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure proceeding.

*Section 4. Prohibiting Claims Arising from Violations of the Truth in Lending Act.* Under the Truth in Lending Act, a mortgagor has a right of rescission with respect to a mortgage secured by his or her residence, under certain circumstances. Bankruptcy Code section 502(b) enumerates various claims of creditors that are not entitled to payment in a bankruptcy case, subject to certain exceptions. Section 4 amends Bankruptcy Code section 502(b) to provide that a claim for a loan secured by a security interest in the debtor's principal residence is not entitled to payment in a bankruptcy case to the extent that such claim is subject to a remedy for rescission under the Truth in Lending Act, notwithstanding the prior entry of a foreclosure judgment. In addition, section 4 specifies that nothing in this provision may be construed to modify, impair, or supersede any other right of the debtor.

*Section 5. Authority to Modify Certain Mortgages.* Under Bankruptcy Code section 1322(b)(2), a chapter 13 plan may not modify the terms of a mortgage secured solely by real property that is the debtor's principal residence. Section 5 amends Bankruptcy Code section 1322(b) to create a limited exception to this prohibition. As amended, the exception only applies to a mortgage that: (1) originated before the effective date of this amendment; and (2) is the subject of a notice that a foreclosure may be (or has been) commenced with respect to such mortgage.

In addition, the debtor must certify pursuant to new section 1322(h) that he or she contacted—not less than 30 days before filing for bankruptcy relief—the mortgagee (or the entity collecting payments on behalf of such mortgagee) regarding modification of the mortgage. The debtor must also certify that he or she provided the mortgagee (or the entity collecting payments on behalf of such mortgagee) a written statement of the debtor's current income, expenses, and debt in a format that substantially conforms with the schedules required under Bankruptcy Code section 521 or with such other form as promulgated by the Judicial Conference of the United States. Further, the certification must include a statement that the debtor considered any qualified loan modification offered to the debtor by the mortgagee (or the entity collecting payments on behalf of such holder). This requirement does not apply if the foreclosure sale is scheduled to



occur within 30 days of the date on which the debtor files for bankruptcy relief. If the chapter 13 case is pending at the time new section 1322(h) becomes effective, then the debtor must certify that he or she attempted to contact the mortgagee (or the entity collecting payments on behalf of such mortgagee) regarding modification of the mortgage before either: (1) filing a plan under Bankruptcy Code section 1321 that contains a modification pursuant to new section 1322(b)(11); or (2) modifying a plan under Bankruptcy Code section 1323 or section 1329 to contain a modification pursuant to new section 1322(b)(11).

Under new section 1322(b)(11), the debtor may propose a plan modifying the rights of the mortgagee (and the rights of the holder of any claim secured by a subordinate security interest in such residence) in several respects. It is important to note that the intent of new section 1322(b)(11) is permissive. Accordingly, a chapter 13 may propose a plan that proposes any or all types of modification authorized under section 1322(b)(11).

First, the plan may provide for payment of the amount of the allowed secured claim as determined under section 506(a)(1). In making such determination, the court, pursuant to new section 1322(i), must use the fair market value of the property at the date that such value is determined. If the issue of value is contested, the court must determine such value in accordance with the appraisal rules used by the Federal Housing Administration.

Second, the plan may prohibit, reduce, or delay any adjustable interest rate applicable on, and after, the date of the filing of the plan.

Third, it may extend the repayment period of the mortgage for a period that is not longer than the longer of 40 years (reduced by the period for which the mortgage has been outstanding) or the remaining term of the mortgage beginning on the date of the order for relief under chapter 13.

Fourth, the plan may provide for the payment of interest at a fixed annual rate equal to the applicable average prime offer rate as of the date of the order for relief under chapter 13, as determined pursuant to certain specified criteria. The rate must correspond to the repayment term determined under new section 1322(b)(11)(C)(i) as published by the Federal Financial Institutions Examination Council in its table entitled, "Average Prime Offer Rates—Fixed." In addition, the rate must include a reasonable premium for risk.

Fifth, the plan, pursuant to new section 1322(b)(11)(D), may provide for payments of such modified mortgage directly to the holder of the claim or, at the discretion of the court, through the chapter 13 trustee during the term of the plan. The reference in new section 1322(b)(11)(D) to "holder of the claim" is intended to include a servicer of such mortgage for such holder. It is anticipated that the court, in exercising its discretion with respect to allowing the debtor to make payments directly to the mortgagee or by requiring payments to be made through the chapter 13 trustee, will take into consideration the debtor's ability to pay the trustee's fees on payments disbursed through the trustee.

New section 1322(g) provides that a claim may be reduced under new section 1322(b)(11)(A) only on the condition that the debtor agrees to pay the mortgagee a stated portion of the net proceeds of sale should the home be sold before the completion of all payments under the chapter 13 plan or before the debtor receives a discharge under section 1328(b). The debtor must pay these proceeds to the mortgagee within 15 days of when the debtor receives the net sales proceeds.

If the residence is sold in the first year following the effective date of the chapter 13 plan, the mortgagee is to receive 90 percent of the difference between the sales price and the amount of the claim as originally determined under section 1322(b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under new section 1322(b)(11)(A). If the residence is sold in the second year following the effective date of the chapter 13 plan, then the applicable percentage is 70 percent. If the residence is sold in the third year following the effective date of the chapter 13 plan, then the applicable percentage is 50 percent. If the residence is sold in the fourth year following the effective date of the chapter 13 plan, then the applicable percentage is 30 percent. If the residence is sold in the fifth year following the effective date of the chapter 13 plan, then the applicable percentage is ten percent. It is the intent of this provision that if the unsecured portion of the mortgagee's claim is partially paid under this provision it should be reconsidered under 502(j) and reduced accordingly.

*Section 6. Combating Excessive Fees.* Section 6 amends Bankruptcy Code section 1322(c) to provide that the debtor, the debtor's property, and property of the bankruptcy estate are not liable for a fee, cost, or charge that is incurred while the chapter 13 case is pending and that arises from a claim for debt secured by the debtor's principal residence, unless the holder of the claim complies with certain requirements. It is the intent of this provision that its reference to a fee, cost, or charge includes an increase in any applicable rate of interest for such claim. It also applies to a change in escrow account payments.

To ensure such fee, cost, or charge is allowed, the claimant must comply with certain requirements. First, the claimant must file with the court and serve on the chapter 13 trustee, the debtor, and the debtor's attorney an annual notice of such fee, cost, or charge (or on a more frequent basis as the court determines) before the earlier of either: one year of when such fee, cost, or charge was incurred, or 60 days before the case is closed. Second, the fee, cost, or charge must be lawful under applicable non-bankruptcy law, reasonable, and provided for in the applicable security agreement. Third, the value of the debtor's principal residence must be greater than the amount of such claim, including such fee, cost or charge.

If the holder fails to give the required notice, such failure is deemed to be a waiver of any claim for such fees, costs, or charges for all purposes. Any attempt to collect such fees, costs, or charges constitutes a violation of the Bankruptcy Code's discharge injunction under section 524(a)(2) or the automatic stay under section 362(a), whichever is applicable.

Section 6 further provides that a chapter 13 plan may waive any prepayment penalty on a claim secured by the debtor's principal residence.

*Section 7. Confirmation of Plan.* Bankruptcy Code section 1325 sets forth the criteria for confirmation of a chapter 13 plan. Section 7 amends section 1325(a)(5) (which specifies the mandatory treatment that an allowed secured claim provided for under the plan must receive) to provide an exception for a claim modified under new section 1322(b)(11). The amendment also clarifies that payments under a plan that includes a modification of a claim under new section 1322(b)(11) must be in equal monthly amounts pursuant to section 1325(a)(5)(B)(iii)(I).

In addition, section 7 specifies certain protections for a creditor whose rights are modified under new section 1322(b)(11). As a condition of confirmation, new section

1325(a)(10) requires a plan to provide that the creditor must retain its lien until the later of when: (1) the holder's allowed secured claim (as modified) is paid; (2) the debtor completes all payments under the chapter 13 plan; or (3) if applicable, the debtor receives a discharge under section 1328(b).

Section 7 also provides standards for confirming a chapter 13 plan that modifies a claim pursuant to new section 1322(b)(11). First, the debtor cannot have been convicted of obtaining by actual fraud the extension, renewal, or refinancing of credit that gives rise to such modified claim. Second, the modification must be in good faith. Lack of good faith exists if the debtor has no need for relief under this provision because the debtor can pay all of his or her debts and any future payment increases on such debts without difficulty for the foreseeable future, including the positive amortization of mortgage debt. In determining whether a modification under section 1322(b)(11) that reduces the principal amount of the loan is made in good faith, the court must consider whether the holder of the claim (or the entity collecting payments on behalf of such holder) has offered the debtor a qualified loan modification that would enable the debtor to pay such debts and such loan without reducing the principal amount of the mortgage.

Section 7 further amends section 1325 to add a new provision. New section 1325(d) authorizes the court, on request of the debtor or the mortgage holder, to confirm a plan proposing to reduce the interest rate lower than that specified in new section 1322(b)(11)(C)(ii), provided:

(1) the modification does not reduce the mortgage principal; (2) the total mortgage payment is reduced through interest rate reduction to the percentage of the debtor's income that is the standard for a modification in accordance with the Obama Administration's Homeowner Affordability and Stability Plan, as implemented on March 4, 2009; (3) the court determines that the debtor can afford such modification in light of the debtor's financial situation, after allowance of expense amounts that would be permitted for a debtor subject to section 1325(b)(3), regardless of whether the debtor is otherwise subject to such paragraph, and taking into account additional debts and fees that are to be paid in chapter 13 and thereafter; and (4) the debtor is able to prevent foreclosure and pay a fully amortizing 30-year loan at such reduced interest rate without such reduction in principal. If the mortgage holder accepts a debtor's proposed modification under this provision, the plan's treatment is deemed to satisfy the requirements of section 1325(a)(5)(A) and the proposal should not be rejected by the court.

*Section 8. Discharge.* Bankruptcy Code section 1328 sets forth the requirements by which a chapter 13 debtor may obtain a discharge and the scope of such discharge. Section 8 amends section 1328(a) to clarify that the unpaid portion of an allowed secured claim modified under new section 1322(b)(11) is not discharged. This provision is not intended to create a claim for a deficiency where such a claim would not otherwise exist.

*Section 9. Standing Trustee Fees.* Section 9(a) amends 28 U.S.C. § 586(e)(1)(B)(i) to provide that a chapter 13 trustee may receive a commission set by the Attorney General of no more than four percent on payments made under a chapter 13 plan and disbursed by the chapter 13 trustee to a creditor whose claim was modified under Bankruptcy Code section 1322(b)(11), unless the bankruptcy court waives such fees based on a determination that the debtor has income less than 150 percent of the official poverty line applicable to the size of the debtor's family and payment

of such fees would render the debtor's plan infeasible.

With respect to districts not under the United States trustee system, section 9(b) makes a conforming revision to section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986.

*Section 10. Effective Date; Application of Amendments.* Section 10(a) provides that this measure and the amendments made by it, except as provided in subsection (b), take effect on the Act's date of enactment.

Section 10(b)(1) provides, except as provided in paragraph (2), that the amendments made by this measure apply to cases commenced under title 11 of the United States Code before, on, or after the Act's date of enactment. Section 10(b)(2) specifies that paragraph (1) does not apply with respect to cases that are closed under the Bankruptcy Code as of the date of the enactment of this Act.

*Section 11. GAO Study.* Section 11 requires the Government Accountability Office to complete a study and to submit a report to the House and Senate Judiciary Committees within two years from the enactment of this Act. The report must contain the results of the study of: (1) the number of debtors who filed cases under chapter 13, during the one-year period beginning on the date of the enactment of this Act for the purpose of restructuring their principal residence mortgages; (2) the number of mortgages restructured under this Act that subsequently resulted in default and foreclosure; (3) a comparison between the effectiveness of mortgages restructured under programs outside of bankruptcy, such as Hope Now and Hope for Homeowners, and mortgages restructured under this Act; (4) the number of appeals in cases where mortgages were restructured under this Act; (5) the number of such appeals where the bankruptcy court's decision was overturned; and (6) the number of bankruptcy judges disciplined as a result of actions taken to restructure mortgages under this Act. In addition, the report must include a recommendation as to whether such amendments should be amended to include a sunset clause.

*Section 12. Report to Congress.* Not later than 18 months after the date of enactment of this Act, the Government Accountability Office, in consultation with the Federal Housing Administration, must submit to Congress a report containing: (1) a comprehensive review of the effects of the Act's amendments on bankruptcy courts; (2) a survey of whether the types of homeowners eligible for the program should be limited; and (3) a recommendation on whether such amendments should remain in effect.

RECOGNIZING DUANE BURLINGAME OF FREEPORT, ILLINOIS

**HON. CHERI BUSTOS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mrs. BUSTOS. Mr. Speaker, I rise today to talk about Mr. Duane Burlingame of Freeport, Illinois.

Duane Burlingame is a tremendous athlete and is currently one of the top master powerlifters in the world. He has won six world titles and recently achieved best lifter heavy-weight honors at the 18th annual Welker Engineering World Association of Bench Pressers and Deadlifters Championships in Las Vegas. He has accomplished all of this despite pre-

vious injuries, and while serving his community.

Duane Burlingame truly lives his life for others while doing what he loves to do. Over his 17 year career, he has raised funds for SIDS, the American Cancer Society, and St. Jude Children's Hospital through asking friends and supporters to pledge money per pound he lifts. By lifting 551 pounds for one of his most recent competitions, he made it clear that he is putting his talent to work for the benefit of those in need in a very big way. This year, Duane Burlingame will be sending toys to children at St. Jude's for Christmas. He explained that he was "much more excited going out and buying toys to send to children" than when he went to the World Championships. He believes that by giving back during difficult times we can all make a big difference. Duane also runs a personal training business and has previously provided fitness and nutrition plans free of charge to those in his community in need.

Mr. Speaker, I'd like to thank Duane Burlingame for his dedication to our community and for supporting important organizations that help to keep all of our communities healthy.

HONORING NAMM'S DEALER OF  
THE YEAR THE CANDYMAN  
STRINGS & THINGS

**HON. BEN RAY LUJÁN**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. BEN RAY LUJÁN of New Mexico. Mr. Speaker, I rise today to recognize the National Association of Music Merchants (NAMM) Dealer of the Year, The Candyman Strings & Things of Santa Fe.

The Candyman Strings & Things, owned by Rand and Cindy Cook, has been a staple in the Santa Fe community since they opened its doors in 1969, and was awarded Dealer of the Year for its innovative and effective practices, as well as for setting an outstanding example for its peers in the musical instrument and products industry. Additionally, Candyman was also given the Music Makes a Difference award for promoting music in its community. Candyman serves to inspire its industry and also aspires to serve its community through numerous educational and scholarship programs. Through its charitable contributions and outreach work, Candyman has made a difference in the lives of customers, schools, and children.

Small businesses are an important part of local communities. Candyman is an example of a small business that has been successful and has had a positive impact in Northern New Mexico. While I applaud Candyman's efforts to ensure a high level of service to its customers, I am even more impressed by its service to the community and efforts to provide mentoring and learning opportunities for young music enthusiasts. Once again, I congratulate The Candyman Strings & Things for being awarded both the Dealer of the Year and Music Makes a Difference awards, and thank the entire team for its exceptional service to our community.

HONORING FRANK "LARRY"  
RUHSTALLER

**HON. JEFF DENHAM**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor San Joaquin County Supervisor Frank "Larry" Ruhstaller on his retirement from the San Joaquin County Board of Supervisors and to thank him for his dedicated, life-long spirit of community service.

Mr. Ruhstaller was born in San Francisco on April 3, 1948. He is a third generation Stocktonian and a graduate of the University of California at Berkeley where he earned his Bachelors of Arts in US History emphasizing in US City Planning. Larry was a Lieutenant Junior Grade in the U.S. Navy.

Currently, Larry is serving his eighth year on the San Joaquin County Board of Supervisors representing the 2nd District, which encompasses most of central and northern Stockton.

During his tenure as Supervisor, Larry has been instrumental in creating a green purchasing policy for the county departments and has been a strong advocate for a comprehensive Delta restoration plan, serving the Chairman of the Delta Protection Commission and as a member of the Delta Stewardship Council and the 5 Delta Counties Coalition. Supervisor Ruhstaller also serves on the Board of Directors of the Health Plan of San Joaquin, the Mental Health Board and Hospital Medical Executive Committee, overseeing the San Joaquin General Hospital operations. In addition, Larry serves as the Board Representative on the Local Agency Formation Commission and as Chairman of the San Joaquin Flood Control Agency.

Prior to his election to the Board, Larry served two terms on the Stockton City Council from 1997–2004. His community involvement includes time as the Chairman of the Stockton Asparagus Festival and President of the Board of Directors of the Stockton Visitors and Convention Bureau.

Frank and his wife, Kitty, have been married 28 years. They have 3 children and 4 grandchildren.

Mr. Speaker, please join me in honoring San Joaquin County Supervisor Larry Ruhstaller on his retirement and thank him for his exemplary leadership and service to the community.

REMEMBERING CLINT REIF

**HON. MIKE QUIGLEY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. QUIGLEY. Mr. Speaker, I rise today to remember and honor the life of an important and respected member of the Chicago community.

On December 21st, we lost a vital asset and key individual to the Chicago Blackhawks team, with the passing of Clint Reif.

In his ninth season with the Blackhawks and sixth as assistant equipment manager, Clint ensured that his team was suited up and ready to play to the best of their ability day in and day out.



Arriving early and leaving late, Clint had one of the all-important duties of maintaining and repairing equipment. And we all know how gentle hockey players are on their equipment. Because of Clint's attention to detail and professionalism, no Blackhawks player was ever left on the ice without exactly what he needed.

But beyond that, he was a family man, with four charming children—Florence, C.J., Aislynn and Colette—and his loving wife, Kelly. He was also devoted to his community, spearheading the team's initiative to outfit the Wounded Warriors hockey team with brand new equipment this past March. The Wounded Warriors Project (WWP) aims to raise awareness and enlist the public's generosity for the needs of injured service members. Clint respected and admired those brave men and women who fought to ensure our freedoms and gave back in true Clint fashion—with hockey equipment.

Another great sports influence in the city of Chicago, Phil Jackson, once said, "The strength of the team is each individual member. The strength of each member is the team." With the passing of Clint, the Chicago Blackhawks lost an irreplaceable individual from their team, one that helped lead them to two Stanley Cup Championships.

A one of a kind guy, Clint will be greatly missed by the Blackhawks, the City of Chicago and the entire hockey community.

I ask my colleagues to join me in honoring and celebrating his life.

#### INTRODUCTION OF A BILL TO PROTECT THE PRIVACY OF CONSUMERS AND REDUCE THEIR VULNERABILITY TO IDENTITY THEFT

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. CONYERS. Mr. Speaker, today, I am introducing the "Cyber Privacy Fortification Act of 2014." This bill would provide criminal penalties for the failure to comply with federal or state obligations to report security breaches of the sensitive personally identifiable information of individuals. Certain breaches would also be required to be reported to the FBI or the Secret Service. The bill would also require federal agencies engaged in rulemaking related to personally identifiable information to publish privacy impact statements relating to the impact of the proposed rule.

One of the main motivators for cybercrime and computer network intrusions is financial gain. Intrusions into networks of financial institutions and businesses may yield information, often on a large scale, about customers such as credit and debit card numbers, Social Security numbers, birth dates, account passwords, and other personally identifiable information. Information obtained through such data breaches may be used to steal from the accounts of the customers, use their credit cards, hack into their personal communications, or the information may be sold to others who commit these crimes or compile provides about individuals which others might find valuable.

With constant revelations about new data breaches impacting millions of Americans, we

must take additional steps to protect the sensitive information of consumers maintained on corporate databases. This bill will provide a greater incentive for companies to provide notice of breaches consumers' sensitive information such as Social Security numbers and financial account numbers. This protects the privacy of our citizens and allows them to be vigilant against identity theft.

TRIBUTES FOR GOV. JAMES B. EDWARDS

**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. WILSON of South Carolina. Mr. Speaker, the hometown, Charleston Lowcountry daily newspaper of the Post and Courier recognized Doctor Edwards with a thoughtful editorial and heartfelt columns were provided by former staffers Robert G. Liming and Ron Brinson.

[From The Post and Courier, Dec. 27, 2014]

JAMES B. EDWARDS

James B. Edwards exhibited, among many other positive attributes, a keen sense of the politically possible. So when the oral surgeon from Mount Pleasant launched his 1974 gubernatorial bid, he knew it was a very long shot.

Yet he also knew something few politicians or pundits of that time realized: A powerful public demand for limited government and fiscal responsibility—and for a more conservative Republican party to lead that charge—was on the rise.

It was made to order for Dr. Edwards' political philosophy. And his engaging personal style helped him advance those goals on behalf of the public he served so well for so long as, among other jobs, governor of South Carolina and president of the Medical University of South Carolina.

His death Friday at age 87 warrants a fresh recognition of his remarkable, admirable legacy—in and out of elective office.

How stacked did the deck look against Dr. Edwards' 1974 run for governor?

It had been less than two years since he had won his first elective office as a state senator. It had been three years since he had lost his run for the 1st District congressional seat, though he did win the GOP nomination in that race.

And it had been 100 years since South Carolinians had elected a Republican governor. Dr. Edwards' GOP primary opponent, retired Gen. William Westmoreland, had a huge name-recognition edge. And even after Dr. Edwards won that primary, he again was the underdog in the general election.

But Democratic primary winner Charles "Pug" Ravenel was removed as his party's nominee on a residency challenge, elevating runner-up William Jennings Bryan Dorn to the ballot. Dr. Edwards made 20th century history by defeating the 13-term congressman from the 3rd District.

During his 1975-79 gubernatorial tenure, Dr. Edwards further established himself as a major player in the GOP's shift to the right. After initially supporting former Texas Gov. John Connally, Gov. Edwards became a prominent supporter of Ronald Reagan's 1976 bid for the party's presidential nomination against incumbent Gerald Ford. Though that effort fell short, it set the stage for Mr. Reagan's successful 1980 run.

Despite his solid conservative credentials, Gov. Edwards established himself as a mas-

ter of crossing party lines. As governor, he worked with the Democratic-controlled Senate and House to expand South Carolina's industrial base with assorted incentives, uplift poor school districts with the Education Finance Act and protect the state's long-term financial stability with a "rainy day" fund.

Gov. Edwards also advanced the reorganization of state government. One of his allies in Columbia, Carroll Campbell, later became an effective champion of that cause during his two terms as governor (1987-95).

S.C. governors were limited to a single term when Dr. Edwards served in that position. So after Mr. Reagan won the presidency in 1980, Dr. Edwards became U.S. energy secretary.

He and President Reagan advocated eliminating the department. As then-Secretary Edwards warned: "There is only one thing that produces energy, and that's the private sector, which government has hamstringed."

Secretary Edwards and his boss pushed to fold the agency into the Department of Commerce. Though Congress wouldn't go along with that, Energy Secretary Edwards did manage to deeply cut the agency's budget and reduce its staff by 2,000.

He stepped up to another challenge in 1996, joining fellow former Govs. Campbell, John West, Robert McNair and Dick Riley in bipartisan backing of Gov. David Beasley's courageous call to remove the Confederate battle flag from the Statehouse dome.

And under his 1982-99 leadership as MUSC president, the size of the campus more than tripled from 1.5 million square feet to 5 million square feet. Along the expanding way, MUSC's reputation for providing both high-quality medical education and health care grew, too. In that ongoing process, the school has attracted top medical, research and teaching talent.

MUSC paid fitting tribute to its former leader in 2010 when it dedicated the James B. Edwards College of Dental Medicine. At the time of the dental college dedication, Dr. Jack Sanders, dean of that school, offered this accurate assessment of Dr. Edwards' lasting contributions:

"His entire life stands as a testament to the values of integrity and service, which we hope to instill in each of our students."

James B. Edwards' legacy in South Carolina, at MUSC and beyond will long live on.

[From The Post and Courier, Dec. 27, 2014]

JIM EDWARDS HAD TRANSFORMATIVE ROLE IN S.C. SHIFT TO GOP

(By Robert G. Liming)

He wasn't a four-star general, legendary Old South congressman or media-savvy Wall Street investment broker, yet he forever transformed Palmetto State politics.

James Burrows Edwards was the exception to every rule in predictable partisan politics. The affable oral surgeon was given no chance of being elected as he paid his filing fee at GOP Headquarters on Columbia's Harden Street in spring of 1974.

He defied backroom dealmakers in the then fledgling Republican Party by thrashing their hand-picked contender, West Pointer Gen. William C. Westmoreland, in the Republican primary.

Democratic Party bosses were so fearful of a Westmoreland candidacy they failed to notice the meteoric rise of Wall Street whiz Charles D. "Pug" Ravenel who used slick television ads and media manipulation to stunningly defeat their anointed, veteran Greenwood congressman, William Jennings Bryan Dorn, in a bitterly contested primary.

Dorn surprisingly became the eventual Democratic nominee after a tumultuous legal battle resulting in a Supreme Court ruling disqualifying Ravenel because he failed to meet the state's legal residency requirement. The court's decision paved the

way for Edwards' implausible November election win. His cash-starved campaign's upset signaled the end of the Democratic death-grip dominance over the state's 46 county courthouses.

Jim Edwards took the oath on a frigid January morning in 1975 and rocked the very political foundation of the Statehouse. Defying political pundits and power brokers, he became the first Republican chief executive since the Union troops fled Columbia, leaving then-Gov. Daniel Chamberlain holding his empty carpetbag.

Most current "life-long" Republican officeholders never met Jim, and those who did can hardly grasp the fact they owe their very opportunity to serve to his courage, character and dedication to public service. There were less than two dozen Republicans in the legislature in 1974, and Nikki Haley was only three years old the evening Jim gave his first state of the State address.

I was a brash and flippant political reporter when I accepted the role as his official spokesman, a hard choice for him since he really didn't know me well. But like so many decisions he made, Jim took his time, weighed all the facts, sought the advice of others and made the final decision on his own. We grew closer and soon our inner office humor abounded. I recall how I coined his nickname as "veto king" and he labeled me as "Dr. No" because of the effort I put into composing the veto messages he signed on numerous pieces of legislation. As a Republican it was his strongest weapon against a Democratic-dominated General Assembly when compromise became impossible.

In today's atmosphere of instant assessment, weblogs of every ilk, and babbling talking heads few if any will recall his countless accomplishments. Jim's strongest skill was his personal ability to sit down one on one and resolve issues, a talent so sadly missing today in Columbia and Washington. Jim was the leader in establishing the state's "rainy day" reserve fund to cover budget shortfalls and unforeseen emergencies; he championed the Education Finance Act to ensure equal funding options for all public schools; led the fight for the state's first tidelands protection laws; and pioneered the reform of the state's festeringly inefficient and ineffective cash-devouring welfare system.

He had no political hit list and he held no grudges. Jim was guided by the wisdom and character he learned from his school teacher parents; the patriotism he shared as a Merchant Marine and later Navy officer; the caring he learned as a surgeon; and his abiding faith and trust in God.

His first love was for his forever first lady, Ann, their precious daughter and son, Catherine and James Jr., and the beloved grandchildren. Yet there was always a special place in his heart for the people of South Carolina, including the Allendale dyed-in-the-wool Democrat farmer who Jim always trusted because he voted for the other guy!

As I recall Jim, this verse will always come to mind: Mark 1:11. We will miss you and your wonderful smile; you were an extraordinary governor, wonderful boss and a dear friend.

[From The Post and Courier]

FUNDAMENTAL GOODNESS WAS THE ESSENCE  
OF JIM EDWARDS  
(By Ron Brinson)

Jim Edwards has died, and there is a void in the heart and soul and political spirit of his beloved South Carolina.

This good man was an American patriot, a principled leader.

His gracious humility framed his soaring intellect.

His life was anchored by those simple old-fashioned American values of education and enterprise, of caring for your family and your neighbors and your country—and always translating that "care" with meaningful commitments and achievement.

He was my friend. He was everyone's friend.

History's bare facts will describe Dr. Edwards as one of those upstart Goldwater Republicans who back in the '60s forged a special brand of post-war American conservatism. He stood side by side with the likes of Ronald Reagan as the Grand Old Party of Abraham Lincoln was reborn, or in today's parlance, "rebooted."

But in the mid-'60s, Jim Edwards was a young oral surgeon, married to Ann Darlington, the love of his life, and they had a very young family. Personal and professional sacrifice defined his entry into what he once called "patriot politics." He was determined, he said, to square America's political compass with "the values and principles that make America America."

In 1974, he was a Charleston-area state senator encouraged to run in the Republican primary for governor—against William Westmoreland, the retired four-star commanding general of U.S. forces in Vietnam. At the time it seemed to many—and perhaps to Dr. Edwards himself—that he was merely the sacrificial political lamb for Gen. Westmoreland's homecoming reach for the governor's office.

Four decades later, we might reckon it was a package of mysterious and fortuitous political providence at work, confecting a dramatic turning point for South Carolina's politics and for Jim Edwards' leadership career. Dr. Edwards was a natural born campaigner, so genuine and sincere. Truth is, Gen. Westmoreland really never had much of a chance to win that primary.

But then Jim Edwards didn't have much chance, either, to prevail in his general election campaign against Democrat Charles "Pug" Ravenel, the Charleston-born Wall Street whiz-kid investment banker. Ah, but providence often is a persistent force in the chancy processes of politics. Mr. Ravenel ran afoul of a five-year residential requirement. He might still have had Lowcountry pluffmud in his toes, but the S.C. Supreme Court nullified his candidacy. Jim Edwards had performed well on the primary campaign trail, and some big-name folks with big bank accounts were lining up to respond to his call for a march back toward "conservatism."

U.S. Rep. William Jennings Bryan Dorn, D-Greenwood, with his late start and his party well off balance, had only a puncher's chance as Ravenel's replacement. On Nov. 5, 1974, James Burrows Edwards became the first Republican governor of South Carolina since Reconstruction. In his affable and witty manner, he declared, "A lot of Democrats will say I'm the first mistake South Carolina has made in a hundred years."

Dr. Edwards, in his inaugural speech, emphasized an often-neglected value of elected governance—results over partisanship. "I begin not with any partisan goals or debts to any special interests, but rather as the recipient of a public trust from 2.8 million great people; people who are hungry for leadership that is not concerned with politics, but dedicated to building responsive and effective government. Let us all reach across political barriers and work together to improve our state . . ."

The politics of election and then governance are different, and for Gov. Edwards, "non-partisanship" equaled political smartness. With only a handful of Republicans in the Legislature, he worked proactively to calibrate agendas with Speaker of the House

Sol Blatt, and Senate leaders Marion Gressette and Rembert Dennis.

"The agenda is important," he once told Sens. Gressette and Dennis. "But we have to work, too, on how best to work together."

A few years ago, he lamented with that warming smile, "Sometimes, it feels like the biggest problem with Republicans is that we've forgotten how to get along with each other."

Everyone, it seemed, got along with Jim Edwards. His gubernatorial record showed steady improvements fiscally and in public education, a nice package of organizational and management reforms and a new emphasis on marketing South Carolina for industrial and commercial growth. Against the very strong opposition of his Mount Pleasant neighbors, Gov. Edwards approved the S.C. State Ports Authority's Wando container terminal project.

And folks always appreciated Jim Edwards' "style" of friendship and loyalty.

As President Reagan's energy secretary, he fronted Reagan's agenda to terminate the Department of Energy. Editorialists were merciless. "It was a joyless ride of misinformed 'establishment' ridicule," Dr. Edwards once said, laughing. "But President Reagan felt very strongly about this and my job was to try to get it done."

The U.S. Department of Energy still stands, of course, but respect and admiration for Jim Edwards were ascending even as he left Washington in 1982 to assume the presidency of the Medical University of South Carolina. His tenure there was exceptional, especially in growing the school's foundation endowments, something very related to his standing in industry and politics.

Every elected leader should consider Jim Edwards' point about working first to get along with each other. Every American might consider the grid of patriotic and good governance principles that guided his personal, professional and political lives. But for those who knew this good man for a moment—or for 50 years—we will rejoice that we crossed paths with him.

A year ago, after Dr. Edwards had suffered a stroke, I asked him about his "legacy." He answered softly, "That can be so subjective; it's in the eyes of the beholder."

I told him I wanted an answer, that I might be writing commentary one day about his "legacy."

He paused for a moment and then added, "I hope someone will say I loved my family and my country, and that they noticed I always tried to do my best."

Let us not be confused by such natural humility; Jim Edwards truly was a great man.

## GUAM WORLD WAR II LOYALTY RECOGNITION ACT

**HON. MADELEINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Ms. BORDALLO. Mr. Speaker, today I have introduced the Guam World War II Loyalty Recognition Act, a bill that would implement the findings of the Guam War Claims Review Commission. Since being elected to the House of Representatives ten years ago, I have introduced a version of this legislation in each Congress. Over the last several Congresses, H.R. 44 passed the House on five separate occasions.

This bill would implement the recommendations of the Guam War Claims Review Commission, which was appointed by Secretary of

the Interior Gale Norton and established by an Act of the 107th Congress (Public Law 107–333). The Review Commission, in a unanimous report to Congress in June 2004, found that there were significant disparities in the treatment of war claims for the people of Guam as compared with war claims for other Americans. The Review Commission also found that the occupation of Guam was especially brutal due to the unfailing loyalty of the people of Guam to the United States of America. The people of Guam were subjected to forced labor, forced marches, internment, beatings, rapes and executions, including public beatings. The Review Commission recommended that Congress remedy this injustice through the enactment of legislation to authorize payment of claims in amounts specified. Specifically, the bill would authorize discretionary spending to pay claims consistent with the recommendations of the commission.

It is important to note that the Review Commission found that the United States Government seized Japanese assets during the war and that the record shows that settlement of claims was meant to be paid from these forfeitures. Furthermore, the United States signed a Treaty of Peace with Japan on September 8, 1951, which precludes Americans from making claims against Japan for war reparations. The treaty closed any legal mechanism for seeking redress from the Government of Japan, and the United States Government has settled claims for U.S. citizens and other nationals through various claims programs authorized by Congress.

The text that I introduce in this Congress addresses concerns that have been raised about the legislation. First, the text reflects a compromise that was reached with the Senate when they considered the legislation as a provision of the National Defense Authorization Act for Fiscal Year 2011. That compromise removes payment of claims to heirs of survivors who suffered personal injury during the enemy occupation. The bill continues to provide payment of claims to survivors of the occupation as well as to heirs of citizens of Guam who died during the occupation. The compromise continues to uphold the intent of recognizing the people of Guam for their loyalty to the United States during World War II.

Further, the bill that I introduce today contains an offset for the estimated cost of the bill. I understood the concerns express by some of my colleagues in a July 14, 2011 hearing on this legislation. My colleagues expressed concern that there was no offset to pay for the cost of the bill. Guam war claims has a very simple offset that will pay for the cost of the legislation over time. The bill would be paid by section 30 funding remitted to Guam through the U.S. Department of Interior at any level above section 30 funds that were remitted to Guam in fiscal year 2012. With the impending relocation of Marines from Okinawa to Guam as well as additional Navy and Air Force personnel relocating to Guam it is expected that Guam will receive additional section 30 funds. Claims would then be paid out over time based off the additional amounts that were made available in any given year. Not only does this offset address payment of claims but it only impacts my jurisdiction and is a credible source of funding that will ensure that claims will be paid. Moreover, the Congressional Budget Office (CBO) indicates in Senate report 113–146 that accompanied S.

1237, the Omnibus Territories Act of 2012, that the offset ensures the bill would not cost the federal government additional funds. Specifically it states, “any such future payments due to Guam that exceed the amount paid in 2012 would instead be paid to a new U.S. Treasury fund that would be available to make compensation payments. CBO estimates that the collection and spending of those funds would have no significant net impact on direct spending over the 2015–2024 period.” Congressional passage of this bill has a direct impact on the future success of the military buildup. The need for Guam War Claims was brought about because of mishandling of war claims immediately following World War II by the Department of the Navy. The long-standing inequity with how Guam was treated for war reparations lingers today. If we do not bring this matter to a close I believe that support for the military build-up will erode and impact the readiness of our forces and the bilateral relationship with Japan.

Mr. Speaker, resolving this issue is a matter of justice. This carefully crafted compromise legislation addresses the concerns of the Senate and fiscal conservatives in the House of Representatives. This bill represents a unique opportunity to right a wrong because many of the survivors of the occupation are nearing the end of their lives. It is important that the Congress act on the recommendations of the Guam War Claims Review Commission to finally resolve this longstanding injustice for the people of Guam.

#### PROTECTING EMPLOYEES AND RETIREES IN MUNICIPAL BANKRUPTCIES ACT OF 2015

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 6, 2015

Mr. CONYERS. Mr. Speaker, I submit the following.

#### SUMMARY

When a municipality files for bankruptcy, its employees and retirees who have devoted their lives to public service—such as police officers, firefighters, sanitation workers and office personnel—risk having their hard-earned wages, pensions and health benefits cut or even eliminated.

This is why I am introducing the “Protecting Employees and Retirees in Municipal Bankruptcies Act of 2015.” This legislation strengthens protections for employees and retirees under chapter 9 municipality bankruptcy cases by: (1) clarifying the criteria that a municipality must meet before it can obtain chapter 9 bankruptcy relief; (2) ensuring that the interests of employees and retirees are represented in the chapter 9 case; and (3) imposing heightened standards that a municipality must meet before it may modify any collective bargaining agreement or retiree benefit.

While many municipalities often work to limit the impact of budget cuts on their employees and retirees, as demonstrated in the chapter 9 plan of adjustment approved by Detroit’s public employees and retirees, other municipalities could try to use current bankruptcy law to set aside collective bargaining agreements and retiree protections.

My legislation addresses this risk by requiring the municipality to engage in meaningful good faith negotiations with its em-

ployees and retirees before the municipality can apply for chapter 9 bankruptcy relief. This measure would also expedite the appellate review process of whether a municipality has complied with this and other requirements. And, the bill ensures employees and retirees have a say in any plan that would modify their benefits.

#### SECTION-BY-SECTION EXPLANATION

*Sec. 1. Short Title.* Section 1 of the bill sets forth the short title of the bill as the “Protecting Employees and Retirees in Municipal Bankruptcies Act of 2015.”

*Sec. 2. Determination of Municipality Eligibility To Be a Debtor Under Chapter 9 of Title 11 of the United States Code.* A municipality can petition to be a debtor under chapter 9, a specialized form of bankruptcy relief, only if a bankruptcy court finds by a preponderance of the evidence that the municipality satisfies certain criteria specified in Bankruptcy Code section 109. In the absence of obtaining the consent of a majority of its creditors, section 109 requires the municipality, in pertinent part, to have negotiated in good faith with its creditors or prove that it is unable to negotiate with its creditors because such negotiation is impracticable.

Section 2(a) of the bill amends Bankruptcy Code section 109 in three respects. First, it provides clear guidance to the bankruptcy court that the term “good faith” is intended to have the same meaning as it has under the National Labor Relations Act at least with respect to creditors who are employees or retirees of the debtor. Second, section 2(a) revises the standard for futility of negotiation from “impracticable” to “impossible.” This change ensures that before a municipality may avail itself of chapter 9 bankruptcy relief it must prove that there was no possible way it could have engaged in negotiation in lieu of seeking such relief. Third, the amendment clarifies that the standard of proof that the municipality must meet is “clear and convincing” rather than a preponderance of the evidence. These revisions to section 109 will provide greater guidance to the bankruptcy court in assessing whether a municipality has satisfied the Bankruptcy Code’s eligibility requirements for being granted relief under chapter 9.

Bankruptcy Code section 921(e), in relevant part, prohibits a bankruptcy court from ordering a stay of any proceeding arising in a chapter 9 case on account of an appeal from an order granting a municipality’s petition to be a debtor under chapter 9. Section 2(b) strikes this prohibition thereby allowing a court to issue a stay of any proceeding during the pendency of such an appeal. This ensures that the status quo can be maintained until there is a final appellate determination of whether a municipality is legally eligible to be a chapter 9 debtor.

Typically, an appeal of a bankruptcy court decision is heard by a district or bankruptcy appellate panel court. Under limited circumstances, however, a direct appeal from a bankruptcy court decision may be heard by a court of appeals. Until a final determination is made as to whether a municipality is eligible to be a debtor under chapter 9 of the Bankruptcy Code, the rights and responsibilities of numerous stakeholders are unclear. To expedite the appellate process and promote greater certainty to all stakeholders in the case, section 2(c) of the bill allows an appeal of a bankruptcy court order granting a municipality’s petition to be a chapter 9 debtor to be filed directly with the court of appeals. In addition, section 2(c) requires the court of appeals to hear such appeal *de novo* on the merits as well as to determine it on an expedited basis. Finally, section 2(c) specifies that the doctrine of equitable mootness does not apply to such an appeal.

*Sec. 3. Protecting Employees and Retirees.* The chapter 9 debtor must file a plan for the adjustment of the municipality's debts that then must be confirmed by the bankruptcy court if it satisfies certain criteria specified in Bankruptcy Code section 943. Section 3 of the bill makes several amendments to current law intended to ensure that interests of municipal employees and retirees are better protected. With respect to plan confirmation requirements, section 3 amends Bankruptcy Code section 943 to require consent from such employees and retirees to any plan that impairs—in a manner prohibited by non-bankruptcy law—a collective bargaining agreement, a retiree benefit, including an accrued pension, retiree health, or other retirement benefit protected by state or municipal law or as defined in Bankruptcy Code section 1114(a).

Such consent would be conveyed to the court by the authorized representative of such individuals. Subject to certain exceptions, section 3 specifies that the authorized representative of individuals receiving any retirement benefits pursuant to a collective bargaining agreement is the labor organization that signed such agreement unless such organization no longer represents active employees. Where the organization no longer represents active employees of the municipality, the labor organization that currently represents active employees in that bargaining unit is the authorized representative of such individuals.

Section 3 provides that the exceptions apply if: (1) the labor organization chooses not to serve as the authorized representative; or (2) the court determines, after a motion by a party in interest and after notice and a hearing, that different representation is appropriate. Under either circumstance, the court, upon motion by any party in interest and after notice and a hearing, must order the United States Trustee to appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate for that committee be comprised of such individuals to serve as the authorized representative.

With respect to retired employees not covered by a collective bargaining agreement, the court, on motion by a party in interest after notice and a hearing, must order the United States Trustee to appoint a committee of retired employees if the debtor seeks to modify or not pay retiree benefits, or if the court otherwise determines that it is appropriate to serve as the authorized representative of such employees. Section 3 provides that the party requesting the appointment of a committee has the burden of proof.

Where the court grants a motion for the appointment of a retiree committee, section 3 requires the United States Trustee to choose individuals to serve on the committee on a proportional basis per capita based on organization membership from among members of the organizations that represent the individuals with respect to whom such order is entered. This requirement ensures that the committee, in a case where there are multiple labor organizations, fairly represents the interests of the members of those various organizations on a proportional basis.

Finally, section 3 of the bill imposes a significant threshold that must be met before retiree benefits can be reduced or eliminated. Current law has no such requirement. In a case where the municipality proposes in its plan to impair any right to a retiree benefit, section 3 permits the committee to support such impairment only if at least two-thirds of its members vote in favor of doing so.

## OUR UNCONSCIONABLE NATIONAL DEBT

### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. COFFMAN. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was \$10,626,877,048,913.08.

Today, it is \$18,080,402,933,324.23. We've added \$7,453,735,606,331.18 to our debt in 5 years. This is over \$7.4 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

## HONORING MICK FOUNTS, ED.D., SAN JOAQUIN COUNTY SUPER- INTENDENT OF EDUCATION

### HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor Mick Founts, Ed.D., San Joaquin County Superintendent of Education, who is retiring after many years of outstanding service to our community.

In 1976, Mick Founts graduated from Humboldt State University with a B.A. in English. Four years later, he obtained his Master's Degree in Education and two credentials: Administrative and Pupil Personnel Services. Mick was awarded his Doctor of Education degree from University of the Pacific in 1995. During his 38 year career in education he has been an English classroom teacher, high school and college football coach, assistant principal for a continuation school, assistant principal for a comprehensive high school, a Coordinator of Child Welfare and Attendance, a Director of Alternative Programs, an Assistant Superintendent of Alternative Education Programs and Charters, an Associate Superintendent of County Operated Schools and Programs, Deputy Superintendent of San Joaquin County Office of Education Student Programs and Services, and in 2010 was elected as San Joaquin County Superintendent of Schools. As Superintendent of Schools, Founts is charged with the ultimate responsibility for all activities of San Joaquin County Office of Education.

In 1991 Mick began the San Joaquin County Office of Education Community School Program. The "one.Program" includes Court School as well as Community School and is recognized throughout the State as an innovative alternative education program. It now serves more than 1,500 at-risk students working to overcome obstacles leading to a high school diploma. Mick was the Juvenile Court, Community, and Alternative School Administrators of California President elect (1996–97), President (1997–1998), and Past President (1998–1999).

Superintendent Founts has either authorized or developed some of the most unique public charter schools in California. These include agricultural academies, technology sites, fine and performing arts high schools, collegiate sports academies, career and technical education academies, and many more . . . all

within San Joaquin County. Dr. Founts currently served as a Commissioner on the California State Board of Education Advisory Commission on Charter Schools. His commitment to Career and Technical Education, Agriculture, Migrant Education, Technology, and Outdoor Education is constant, as is his commitment to Teachers College of San Joaquin; the first college operated by a County Office of education. This commitment extends to the many events that SJCOE sponsors for students throughout the County: Academic Decathlon, Science Olympiad, Math Olympiad, Mock Trial, as well as the local and State Spelling Bee, to name just a few.

In 2013, he was one of twenty Superintendents to work with Governor Brown to support the reform effort aimed at bringing more money to children in our schools. In addition, he championed a variety of programs to fill the void in operations and support programs created from budget cuts in sports, technology, and art clinics, as well as helped fundraise to send more than 200 students to Outdoor Education by way of fundraising.

Also during his term as San Joaquin County Office of Education Superintendent, Mick served as an environmental steward for schools by designing a cutting edge Solar Parking Lot linked to the SJCOE Clean Transportation Technologies Academy and New Energy Academy funded by a partnership between PG&E, SJCOE, and California Department of Education. Its curriculum is devoted to renewable energy and green technology topics with the goal of giving students a foundation for college and jobs in the clean tech industry.

Superintendent Founts was instrumental in the formation of the County's career academy concept that will prepare kids for work and college. His vision created a state-of-the-art career and technical education facility along with regional occupational programs and centers such as Career Academy of Cosmetology. In addition, through SJ Building Futures Academy and SJ Regional Conservation Corps, he helped give young adults viable work skills as well as keeping them off the street by providing a second chance at a high school diploma.

Like his taste for variety in education, Mick also enjoys an array of hobbies. In addition to his career in education, he is a ranch owner and farmer for his family's South African Boer Goat business Biggy Farms and regularly competes in National livestock shows. Mick played and coached both high school and college football and continues to enjoy sports. He can often be found at a local football or basketball game. Mick was raised in a musical family and played in bands during his younger years. He continues to play the guitar for his own enjoyment and has an appreciation for many different musical styles. He also has a love for Victorian homes and he and his family have enjoyed restoring one on their own property.

Mick's impact on students covers many years and it is not unusual to hear grown men refer to him as "coach" to this day. Previous students often call his office or stop by to share that they would not be where they are today had it not been for his influence. When Mick retires at the end of his term, he leaves a legacy that spans many generations.

Mr. Speaker, please join me in honoring and commending the outstanding contributions made to education and the San Joaquin community by Superintendent Mick Founts and

hereby wish him continued success in his retirement.

# INTRODUCTION OF TWO CORPORATE CRIME BILLS

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. CONYERS. Mr. Speaker, today, I am introducing two bills to help hold accountable corporations who market dangerous products and who violate the law. We rely on corporations to provide necessary goods and services to consumers and to provide jobs for our citizens. Unfortunately, sometimes corporations engage in acts that may harm us or that otherwise run afoul of the law. That is why I am introducing these measures.

The Dangerous Products Warning Act concerns businesses who learn that products they are marketing are dangerous but who do not inform the appropriate federal agency or warn the public.

It amends the federal criminal code to impose a fine and/or prison term of up to 5 years on any business entity or product supervisor with respect to a product or business practice who knows of a serious danger associated with such product or business practice and knowingly fails within 15 days after discovering such danger to inform an appropriate federal agency in writing, warn affected employees in writing, and inform other affected individuals. The bill imposes a fine and/or prison term of up to 1 year on any individual who intentionally discriminates against an employee who informs a federal agency or warns employees of a serious danger associated with a product or business practice.

The Corporate Crime Database Act deals with the concern that the public has inadequate means of learning about the degree to which companies are engaging in acts in violation of the law, and sets up a mechanism to track such violations and make the information available to the public.

The bill directs the Attorney General to: (1) acquire data, for each calendar year, regarding all administrative, civil, and criminal judicial proceedings against any corporation or corporate official involving a felony or misdemeanor or civil charge where potential fines may be \$1,000 or more; (2) establish and maintain a publicly available website on improper conduct by all corporations with annual revenues of more than \$1 billion; and (3) prepare an annual report to Congress detailing the number of civil, administrative, and criminal enforcement actions brought against any corporation or corporate official and the final dispositions of such actions.

With the enactment of these two bills, we would take important steps toward protecting our citizens from harm and empowering them to know which corporations are violating our laws.

TRIBUTE TO MAJOR JACOB "JAKE" A. WHITESIDE FOR EXCEPTIONAL SERVICE TO THE UNITED STATES ARMY

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. VISCLOSKY. Mr. Speaker, I rise to pay tribute to Major Jacob "Jake" A. Whiteside for his dedication to duty and service as a Defense Legislative Fellow. Major Whiteside will be transitioning from his present assignment with my office to serve as the Executive Officer for the 12th Aviation Battalion, United States Army.

A native of Memphis, Tennessee, Major Whiteside was accepted into the Carson-Newman University Reserve Officer Training Corps program in 1999, where he earned a Bachelor of Arts Degree in English Literature and graduated as a Distinguished Military Graduate with the class of 2003. Upon graduation, Jake was commissioned as an Army Aviation Branch Officer. He has subsequently earned a Master's degree in Legislative Affairs from the George Washington University.

Prior to entering the Army Congressional Fellowship Program, Jake served in numerous tactical leadership and staff assignments as an Army Aviation Branch Officer, and Scout/Attack OH-58 helicopter Pilot. Major Whiteside's assignments include Flight School Student, United States Army Aviation Center of Excellence, Fort Rucker; Flight Platoon Leader, 1st Battalion (Attack), 82nd Combat Aviation Brigade, Fort Bragg; Future Operations and Current Operations Officer, 1st Squadron, 17th CAV, Fort Bragg; Headquarters Troop Commander, 1st Squadron, 17th CAV, Fort Bragg; Student, Army Aviation Captain's Career Course, Army Aviation Center of Excellence, Fort Rucker; and most recently Aviation Branch Representative, United States Military Academy, West Point. Additionally, Major Whiteside was deployed in direct support of combat operations in Mosul, Iraq, in 2006–2007, and Regional Command—South, Afghanistan, in 2009–2010. While deployed, Jake accumulated over 500 hours of combat flight time in direct support of soldiers in the fight.

Throughout his career, Major Whiteside has positively impacted his soldiers, peers, and superiors. Our country has been enriched by his extraordinary leadership, thoughtful judgment, and exemplary work.

As a personal matter, in his role as Defense Legislative Fellow, Jake provided me with candid advice and became a trusted source of counsel to me, my personal staff, and committee staff. Blessed with a sterling intellect and nimble mind, he vigorously and effectively addressed any challenging task placed before him. Further, his incomparable work ethic, poise under pressure, and generosity will be sorely missed. To put it simply, Major Whiteside's performance has set a standard on which I will evaluate all future Congressional Fellows.

Mr. Speaker, it has been a genuine pleasure to have worked with Major Jake Whiteside over the last year. On behalf of a grateful nation, I join my colleagues today in recognizing and commending Jake for his service to his country and we wish him, his wife Marci, and

boys, Bryce and Gavin, all the best as they continue their journey in the United States Army.

IN RECOGNITION OF THE 100TH BIRTHDAY OF MERCY HIGH SCHOOL BURLINGAME'S KOHL MANSION

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Ms. SPEIER. Mr. Speaker, I rise to honor the Centennial of Mercy High School Burlingame's Kohl Mansion, an historic and beautiful building with deep meaning for the community and for me personally. As an alumna of Mercy High and the mother of a daughter who also graduated from this outstanding school, this institution has shaped my life.

Today, Mercy High School Burlingame, a Catholic college preparatory high school, educates 400 young women a year, with the majority coming from San Mateo County. About three quarters of the students are Roman Catholic and 90 percent of the students are engaged in at least one extra-curricular activity. Mercy encourages students to discover themselves and explore their dreams; they receive an education of mind, body and spirit. This recipe and small class sizes prove to be highly successful. In the class of 2014, 87 percent matriculated to four year colleges and 13 percent matriculated to community colleges.

Mercy education finds its origins in Ireland in the ministry of Catherine McAuley, the foundress of the Sisters of Mercy. Their work is marked by a special concern for the needs of the poor, in particular women and children. This tradition continues to this day.

The Kohl Mansion was originally built from 1912 to 1914 by Charles Frederick "Freddie" Kohl for his wife Bessie. Kohl, born in San Jose in 1863, grew up in a mansion on an estate in San Mateo, now known as Central Park. His father had made a fortune as the founder of Alaska Commercial Company and so Kohl Junior was used to an opulent lifestyle. Freddie and Bessie's travels to Europe further inspired them to build the lavish four-story Tudor named "The Oaks."

In 1924, the Sisters of Mercy bought the house and turned it into a chapel. When the sisters moved down the hill to a new building, Principal Sister Mary Lorenzo Murphy and seven other nuns opened Mercy High School in the mansion in 1931, admitting 36 freshmen and sophomores.

The old Kohl Mansion has embraced technology and modern facilities. Mercy launched its website in 1999. Over the decades, a state-of-the-art athletic center with an Olympic size pool, a commercial kitchen, a new cafeteria and a multi-media center were built, among the many improvements. At every step of the way, the focus of the school was to provide its students with the best education and learning environment possible.

Mr. Speaker, I ask the House of Representatives to rise with me to honor one of the finest high schools in the country, Mercy High School Burlingame on the occasion of the Kohl Mansion's 100th birthday. May this historic building remain the home of education and learning for centuries to come.

INTRODUCTION OF THE "SHIELD  
OUR STREETS ACT OF 2015"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. CONYERS. Mr. Speaker, today, I am introducing an important bill to respond to the crisis that some jurisdictions are facing with respect to hiring police officers and funding programs to enhance public safety. This bill would establish two public safety grant programs.

Section 2 establishes Shield Police Hiring Grants, to be implemented by the Attorney General, to provide grants to law enforcement agencies that operate in Elevated Need Localities. An "Elevated Need Locality" is a county (or unit of local government which is not part of a county) which (1) has a crime rate above the national average, and (2) has had budget reductions during the most recent 5-year period. These law enforcement agencies could apply to the Attorney General to receive funds to hire law enforcement officers, or to rehire officers who have been laid off due to budget reductions.

Grants would last for three years and may be extended by two years at the discretion of the Attorney General. \$100 million for each fiscal year 2016 through 2021 are authorized to be appropriated for this program.

Section 3 establishes Shield Public Safety Enhancement Grants, to be implemented by the Attorney General, to provide grants to units of local government that has jurisdiction over all or part of an Elevated Need Locality. Local governments could apply to the Attorney General to receive funds to enhance public safety in a number of ways, such as purchasing public safety equipment, finding public safety programs, making infrastructure improvements for the purpose of enhancing public safety, purchasing and installing street lights to deter crime, funding activities related to crime labs, and funding public defender programs. Non-profit organizations operating in Elevated Need Localities may also apply for grants under this program to fund initiatives designed to reduce crime in these jurisdictions.

Grants would be for one year but may be extended at the discretion of the Attorney General. \$100 million for each fiscal year 2016 through 2021 are authorized to be appropriated for this program.

These programs will help enhance public safety in jurisdictions facing high crime rates and particularly acute budget issues. The programs would be available to fund the hiring of police officers and the operation of initiatives to address public safety and crime. Programs that enhance public safety will prevent crime, which will decrease the victimization of our citizens and reduce the financial costs associated with crime. That is why this legislation is necessary.

IN MEMORY OF GOVERNOR JAMES  
BURROWS EDWARDS

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 6, 2015*

Mr. WILSON of South Carolina. Mr. Speaker, during Christmas week the people of South Carolina lost a true patriot with the death of Doctor James B. Edwards of Mount Pleasant. The following obituary highlights his love and affection for his devoted family and community.

JAMES BURROWS EDWARDS  
OBITUARY

James Burrows Edwards Mt. Pleasant—James Burrows Edwards, DMD, 87, of Mount Pleasant, South Carolina, died Friday, December 26, 2014. Jim was born June 24, 1927, in Hawthorne, Florida to the late O.M. and Bertie Ray Edwards. Both parents were school teachers, careers which led them to St. Andrews, South Carolina, in 1935 and Mt. Pleasant in 1937.

As a boy in Mt. Pleasant, Jim spent his spare time at Ft. Moultrie, home of the 263rd Coast Artillery, and acquired a lifelong love of the military and life at sea. Jim graduated from Moultrie High School in June 1944, and took a job with the Army Transportation Corps as a deck hand on an L-78 tug boat. Though only 17 years old, he joined the Merchant Marines in December 1944. Jim was assigned to the Dogwood, a Liberty Ship converted to a hospital ship transporting wounded servicemen home from Europe. Eventually he also served on the U.S.A.T. Bridgeport, the George Washington, and the Larkspur. Jim worked his way through the ranks from ordinary seaman to an officer by age 19, licensed to pilot ships transporting "any tonnage on any water in the world."

In 1947, Jim began studies at the College of Charleston, while also working as a night officer on ships as a member of the Master, Mates and Pilots Association. During summers, he remained active in seafaring trade, delivering coal to France and England, granite for the Santee Cooper Dam, and general cargo to ports throughout the Caribbean and South America.

Jim graduated from the College of Charleston in 1951, married Ann Darlington, his childhood sweetheart, and entered dental school at the University of Louisville. Upon graduation, he served two years on active duty with the U.S. Navy in Chincoteague, Virginia, as a general dentist. He would remain active in the United States Naval Reserve until 1967, retiring as a lieutenant commander.

After completing graduate medical training at the University of Pennsylvania in 1958 and a residency at Henry Ford Hospital in Detroit, Michigan, in 1959, Jim pursued his dream to return to Charleston, establishing his practice in Oral and Maxillofacial surgery in 1960.

While building a thriving practice, Jim entered the political arena, serving six years as the Charleston County Republican Party chairman. An unsuccessful bid for the United States Congress in 1971 was soon followed by his election to the South Carolina State Senate in 1972. Two years later, Jim was elected Governor of South Carolina—the state's first Republican Governor since reconstruction. Jim served as governor from 1975 to 1979, returning briefly to his oral surgery practice in Charleston.

In 1981, President Ronald Reagan appointed Jim as Secretary of the United States Department of Energy, a position he

held until November 1982, when he was called as president of the Medical University of South Carolina. Jim served as president of MUSC for 17 years, retiring in 2000. As president emeritus, Jim actively continued fundraising for the MUSC Health Sciences Foundation until 2014.

Among numerous civic and academic honors, Jim was granted the Order of the Palmetto for his public service to the State of South Carolina, and is an inductee into the South Carolina Hall of Fame. He served on the Board of Directors of the Harry Frank Guggenheim Foundation, the Gaylord and Dorothy Donnelly Foundation, SCANA, South Carolina National Bank, Encyclopedia Britannica, Waste Management, Chemical Waste Management, J. P. Stevens, Brendles, IMO Delaval, Inc., Phillips Petroleum, National Data Corporation, Burris Chemical Co., the W. M. Benton Foundation, the MUSC Health Sciences Foundation, and the Communications Satellite Corporation (COMSAT).

Jim is survived by his beloved wife of 63 years, Ann; his son, James B. Edwards, Jr. and his wife, Jenny, of Columbia; his daughter, Catharine E. Wingate, and her husband, Ken, of Columbia; grandchildren, Miriam Wingate Ashworth, K. Bryan Wingate, Jr., Ansley Darlington Edwards, James B. Edwards, III, Catharine Paxson Wingate, and Hellen Tucker Edwards; one great-grandchild, Eliza Ann Wingate, and numerous nephews and nieces. In addition to his parents, Jim was preceded in death by his sister, Josephine E. Pinckney, his brother, Dr. Morton Thomas Edwards, his sisters, Ada Frances E. Melchers and Jane Ann E. Varn.

Visitation will be from 5:30 until 7:30 p.m. on Sunday, December 28, 2014 at St. Luke's Chapel, on the Campus of the Medical University of South Carolina. The funeral service will be conducted at St. Philip's Church at 1:00 p.m. on Monday, December 29, 2014 by The Rt. Rev'd. Dr. C. FitzSimons Allison. Interment will follow in the churchyard of Christ Church, Mt. Pleasant, after which the family will receive visitors in the parish hall of Christ Church.

The family requests, in lieu of flowers, that memorials be made to the MUSC Foundation for the College of Nursing or for the College of Dental Medicine. (MUSC Foundation, 18 Bee Street, Charleston, SC 29425).

Arrangements by J. Henry Stuhr Inc., Mount Pleasant Chapel. A memorial message may be sent to the family by visiting our website at [www.jhenrystuhr.com](http://www.jhenrystuhr.com). Visit our guestbook at [www.legacy.com/obituaries/charleston](http://www.legacy.com/obituaries/charleston).

The Lexington County Chronicle published an inspiring tribute which reflects the extraordinary impact of Lexington County voters in 1974 where the county's victory margin of 10,433 was a large majority of the statewide victory margin of 17,477.

As an indication of the family's appreciation of Lexington County, its Member of Congress, JOE WILSON, was selected to be an Honorary Pall Bearer.

FORMER S.C. GOV. JAMES EDWARDS SUCCEUMBS  
TO STROKE

(By Hal Millard)

James B. Edwards, the state's first GOP governor since Reconstruction, has died.

He was 87. Edwards, a dentist by trade who in 1974 became the first Republican governor in South Carolina since 1876, died Dec. 26 at his Mount Pleasant home from complications caused by a stroke.

Politicians throughout the state mourned his passing.

Expressing her sympathy, Gov. Nikki Haley wrote on Facebook that Edwards "appreciated the opportunities and challenges of this office."



"Governor Edwards always offered kind words of support and encouragement—and we are forever grateful for his friendship," Haley wrote. "Michael and I are deeply saddened by the passing of Governor Edwards, whose love for South Carolina inspired him to serve until his last day . . ."

GOP Congressman Joe Wilson of Springdale echoed those sentiments and added, "I am grateful to have had a lifetime of working with Dr. Jim Edwards, and the honor of knowing his wife Anne, daughter Cathy, and son Jim. Dr. Edwards was a tireless stalwart for conservative limited government to expand freedom."

"In high school, I would visit his dental office for Goldwater materials, in his capacity as Charleston County Republican Chairman," Wilson continued. "In 1974, he courageously ran and was elected as South Carolina's first Republican governor. At that time, I worked with him on the State Development Board, where he recruited Michelin Tire Corporation to produce job opportunities for our citizens. I was honored to serve him in the visionary Reagan Administration as Deputy General Counsel as he achieved success in deregulation as Secretary of Energy."

Wilson also hailed Edwards' 17-year tenure as president of the Medical University of South Carolina.

"His return to Charleston as president of the Medical University of South Carolina resulted in MUSC becoming recognized for world-class universities," Wilson said. "South Carolina has lost a Southern Gentleman, devoted dad and grandfather, who has made a difference as a key architect for a political revolution."

Wilson noted that Edwards' groundbreaking win in 1974 was a precursor to the current Republican dominance in the Deep South.

"Dr Edwards' vision of an inclusive Republican Party came to fulfillment [in December] with the U.S. Senate victory in Louisiana, from his start with no elected statewide Republican officials in the five-state Deep South, and now all statewide officials are Republicans," Wilson said.

Edwards became governor amid the turmoil of the Watergate years and was one of the few GOP bright spots in an election year in which Democrats dominated. A long-shot candidate who had previously served two years as a state senator from Charleston County, Edwards defeated Gen. William Westmoreland in the GOP primary, then upset long-time Democratic Congressman William Jennings Bryan Dorn in the general election.

Edwards served in an era when governors were prohibited from serving consecutive terms. Following his term as governor, Edwards was nominated as President Ronald Reagan's Energy Secretary; serving two years in that role before resigning to become president of MUSC.

most productive and dynamic in the world. Unfortunately, when some of these businesses encounter financial difficulties and seek to reorganize their debts under Chapter 11 of the Bankruptcy Code, these very same workers and retirees are often asked to make major sacrifices through lost job protections, lower wages, and the elimination of hard-won pension and health benefits, while the executives and managers of these business are not required to make comparable sacrifices.

We must do more to ensure that America's most important resource—workers and retirees—are treated more fairly when these businesses seek to reorganize their financial affairs under the protection of our bankruptcy laws. The Protecting Employees and Retirees in Business Bankruptcies Act of 2015 accomplishes this goal by amending the Bankruptcy Code in several respects. First, it improves recoveries for employees and retirees by: (1) increasing the amount of worker claims entitled to priority payment for unpaid wages and contributions to employee benefit plans up to \$20,000; (2) eliminating the difficult to prove restriction in current law that wage and benefit claims must be earned within 180 days of the bankruptcy filing in order to be entitled to priority payment; (3) allowing employees to assert claims for losses in certain defined contribution plans when such losses result from employer fraud or breach of fiduciary duty; (4) establishing a new priority administrative expense for workers' severance pay; and (5) clarifying that back pay awards for WARN Act damages are entitled to the same priority as back pay for other legal violations.

Second, the legislation reduces employees' and retirees' losses by: (1) restricting the conditions under which collective bargaining agreements and commitments to fund retiree pensions and health benefits may be eliminated or adversely affected; (2) preventing companies from singling out non-management retirees for concessions; (3) requiring a court to consider the impact a bidder's offer to purchase a company's assets would have on maintaining existing jobs and preserving retiree pension and health benefits; and (4) clarifying that the principal purpose of Chapter 11 bankruptcy is the preservation of jobs to the maximum extent possible.

Third, the bill restricts excessive executive compensation programs by: (1) requiring full disclosure and court approval of executive compensation packages; (2) restricting the payment of bonuses and other forms of incentive compensation to senior officers and others; and (3) ensuring that insiders cannot receive retiree benefits if workers have lost their retirement or health benefits.

This legislation is identical to H.R. 100, introduced in the 113th Congress, and H.R. 6117, introduced in the 112th Congress. It is supported by the AFL-CIO and many of its largest affiliates, and the United Steelworkers.

#### SECTION-BY-SECTION EXPLANATION OF THE BILL

*Sec. 1. Short Title.* Section 1 sets forth the short title of the bill as the "Protecting Employees and Retirees in Business Bankruptcies Act of 2015." It also includes a table of contents for the bill.

*Sec. 2. Findings.* Section 2 sets forth various findings in support of this bill.

#### TITLE I—IMPROVING RECOVERIES FOR EMPLOYEES AND RETIREES

*Sec. 101. Increased Wage Priority.* Bankruptcy Code section 507 accords priority in payment status for certain types of claims, i.e., these priority claims must be paid in full in the order of priority before general unsecured claims may be paid. Section 507(a)(4) accords a fourth level priority to an unsecured claim up to \$10,000 owed to an in-

dividual for wages, salaries, or commissions (including vacation, severance, and sick leave pay) earned within the 180-day period preceding the filing of the bankruptcy case or the date on which the debtor's business ceased, whichever occurs first. Section 101 amends section 507(a)(4) to increase the amount of the priority to \$20,000 and eliminate the 180-day reachback limitation.

Bankruptcy Code section 507(a)(5) accords a fifth level priority for unsecured claims for contributions to an employee benefit plan arising from services rendered within the 180-day period preceding the filing of the bankruptcy case or the date on which the debtor's business ceased (whichever occurs first). The amount of the claim is based on the number of employees covered by the plan multiplied by \$10,000, less the aggregate amount paid to such employees pursuant to section 507(a)(4) and the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan. Section 101 amends Bankruptcy Code section 507(a)(5) to: (1) increase the priority amount to \$20,000; (2) eliminate the offset requirements; and (3) eliminate the 180-day limitation.

*Sec. 102. Claim for Stock Value Losses in Defined Contribution Plans.* Section 102 amends the Bankruptcy Code's definition of a claim to include a right or interest in equity securities of the debtor (or an affiliate of the debtor) held in a defined contribution plan for the benefit of an individual who is not an insider, senior executive officer or one of the 20 next most highly compensated employees of the debtor (if one or more are not insiders), providing: (1) such securities were attributable to employer contributions by the debtor (or an affiliate of the debtor), or by elective deferrals, together with any earnings thereon; and (2) the employer or plan sponsor who commenced the bankruptcy case either committed fraud with respect to such plan or otherwise breached a duty to the participant that proximately caused the loss of value.

*Sec. 103. Priority for Severance Pay.* Bankruptcy Code section 503(b) establishes an administrative expense payment priority for certain types of unsecured claims. Among all types of unsecured claims, administrative expenses are accorded the highest payment priority, i.e., they must be paid in full before priority and general unsecured claims may be paid. Section 103 amends section 503(b) to accord administrative expense priority for severance pay owed to the debtor's employees (other than an insider, other senior management, or a consultant retained to provide services to the debtor) under a plan, program or policy generally applicable to the debtor's employees (but not under an individual contract of employment) or owed pursuant to a collective bargaining agreement for termination or layoff on or after the date the bankruptcy case was filed. Such pay is deemed earned in full upon such termination or layoff.

*Sec. 104. Financial Returns for Employees and Retirees.* Bankruptcy Code section 1129(a) specifies various criteria that must be satisfied before a chapter 11 plan of reorganization may be confirmed. Section 104 amends section 1129(a) to add a further requirement. The plan must provide for the recovery of damages for the rejection of a collective bargaining agreement or for other financial returns as negotiated by the debtor and the authorized representative under section 1113 to the extent such returns are paid under, rather than outside of a plan.

Section 104 also replaces Bankruptcy Code section 1129(a)(13), which pertains to the payment of retiree benefits under section 1114. As revised, section 1129(a)(13) requires a plan to provide for the continuation after the plan's effective date of the payment of all retiree benefits at the level established under

#### PROTECTING EMPLOYEES AND RETIREES IN BUSINESS BANKRUPTCIES ACT OF 2015

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 6, 2015

Mr. CONYERS. Mr. Speaker, I submit the following.

#### SUMMARY

Throughout our Nation's history, hard-working American men and women have labored to make our businesses become the

either section 1114(e)(1)(B) or (g) at any time prior to confirmation of the plan, for the duration of the period for which the debtor has obligated itself to provide such benefits. If no modifications are made prior to confirmation of the plan, the plan must provide for the continuation of all retiree benefits maintained or established in whole or in part by the debtor prior to the petition filing date. In addition, the plan must provide for recovery of claims arising from the modification of retiree benefits and other financial returns as negotiated by the debtor and the authorized representative to the extent such returns are paid under, rather than outside of, a plan.

*Sec. 105. Priority for WARN Act Damages.* Section 105 amends Bankruptcy Code section 503(b)(1)(A)(ii) to provide administrative expense status to wages and benefits awarded pursuant to a judicial or National Labor Relations Board proceeding as back pay or damages attributable to any period of time occurring after the commencement of the bankruptcy case. This provision applies where the award was made as a result of the debtor's violation of federal or state law, without regard to the time of the occurrence of unlawful conduct on which the award is based or to whether any services were rendered on or after the commencement of the bankruptcy case. It includes an award by a court under section 2901 of title 29 of the United States Code of up to 60 days' pay and benefits following a layoff that occurred or commenced at a time when such award period includes a period on or after the commencement of the case, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case under this title.

#### TITLE II—REDUCING EMPLOYEES' AND RETIREES' LOSSES

*Sec. 201. Rejection of Collective Bargaining Agreements.* Bankruptcy Code section 1113 sets forth the requirements by which a collective bargaining agreement may be assumed or rejected. Section 201 amends section 1113 in several respects. First, it amends section 1113(a) to clarify that a chapter 11 debtor may reject a collective bargaining agreement only in accordance with section 1113.

Second, it amends Bankruptcy Code section 1113(b) to clarify that no provision in title II of the United States Code may be construed to permit a trustee to unilaterally terminate or alter the terms of a collective bargaining agreement absent compliance with section 1113. The provision further specifies that the trustee must timely pay all monetary obligations arising under such agreement and that any payment required to be made pre-confirmation has the status of an allowed administrative expense under Code section 503.

Third, it amends Bankruptcy Code section 1113(c) to require a trustee, when seeking to modify a collective bargaining agreement, to provide notice of such proposed modification to the labor organization representing the employees covered by the agreement. The trustee must also promptly provide an initial proposal for modification. In addition, the trustee must confer in good faith with the labor organization, at reasonable times and for a reasonable period, given the complexity of the case, in an effort to reach a mutually acceptable modification of the agreement. Each modification proposal must be based on a business plan for the reorganization of the debtor and reflect the most complete and reliable information. As amended, section 1113(c) requires the trustee

to provide to the labor organization all information relevant for negotiations. If such disclosure could compromise the debtor's position with respect to its competitors in the industry, the provision authorizes the court to issue a protective order, subject to the needs of the labor organization to evaluate the trustee's proposal and any application to reject the collective bargaining agreement or for interim relief under section 1113.

In consideration of federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, any modification proposed by the trustee must: (1) only be proposed as part of a program of workforce and nonworkforce cost savings devised for the debtor's reorganization, including savings in management personnel costs; (2) be limited to modifications designed to achieve a specified aggregate financial contribution for employees covered by the agreement, taking into consideration any labor cost savings negotiated within the 12-month period prior to the filing of the bankruptcy case; (3) be no more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor; and (4) not be disproportionate or overly burden the employees covered by the agreement, either in the amount of the cost savings sought from such employees or the nature of the modifications.

Fourth, it amends Bankruptcy Code section 1113(d) to provide that if the trustee and the labor organization (after a period of negotiations) do not reach an agreement over mutually satisfactory modifications and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking rejection of the collective bargaining agreement after notice and a hearing. Absent agreement by the parties, the hearing may not be held earlier than 21 days from when notice of the hearing is provided. Only the debtor and the labor organization may appear and be heard at the hearing. An application for rejection must seek rejection effective upon the entry of an order granting such relief.

In consideration of federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, section 1113(d) (as amended) provides that the court may grant a motion seeking rejection of such agreement only if the court: (1) finds that the trustee has complied with the requirements of section 1113(c); (2) has considered alternative proposals by the labor organization and concluded that such proposals do not meet the requirements of section 1113(c)(3)(B); (3) finds that further negotiations regarding the trustee's proposal or an alternative proposal by the labor organization are not likely to produce an agreement; (4) finds that implementation of the trustee's proposal will not: (a) cause a material diminution in the purchasing power of the employees covered by the agreement, (b) adversely affect the debtor's ability to retain an experienced and qualified workforce; or (c) impair the debtor's labor relations such that the ability to achieve a feasible reorganization will be compromised; and (5) concludes, based on clear and convincing evidence, that rejection of the agreement and immediate implementation of the trustee's proposal is essential to permit the debtor's exit from bankruptcy such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor in the short term. If the trustee has implemented a program of

incentive pay, bonuses or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants (or such a program was implemented within 180 days before the bankruptcy case was filed), the court must presume that the debtor has failed to satisfy the requirements of section 1113(c)(3)(C).

Subsection (d), as amended, prohibits the court from entering an order rejecting a collective bargaining agreement that would result in modifications to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of section 1113.

At any time after an order rejecting a collective bargaining agreement is entered (or mutually satisfactory agreement between the trustee and the labor organization is entered into), the labor organization may apply to the court for an order seeking an increase in the level of wages or benefits or relief from working conditions based on changed circumstances. The court must grant such relief only if the increase or other relief is not inconsistent with the standard set forth in section 1113(d)(2)(E).

Fifth, section 201 amends Bankruptcy Code section 1113(e) to provide that during the period in which a collective bargaining agreement at issue under this section continues in effect and if either essential to the continuation of the debtor's business or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim changes in the terms, conditions, wages, benefits, or work rules provided by the collective bargaining agreement. Any hearing under this provision must be scheduled in accordance of the trustee's needs. The implementation of such interim changes will not render the application for rejection moot.

Sixth, section 201 amends Bankruptcy Code section 1113(f) to provide that the rejection of a collective bargaining agreement constitutes a breach of such agreement and is effective no earlier than the entry of an order granting such relief. Solely for the purpose of determining and allowing a claim arising from rejection of a collective bargaining agreement, such rejection must be treated as a rejection of an executory contract under Bankruptcy Code section 365(g) and shall be allowed or disallowed in accordance with section 502(g)(1). Subsection (f), as amended, further provides that no claim for rejection damages may be limited by section 502(b)(7). In addition, the provision permits economic self-help by a labor organization upon a court order granting rejection of a collective bargaining agreement under either subsection (d) or (e) of section 1113. It further provides that neither title 11 of the United States Code nor other provisions of State or Federal law may be construed to the contrary.

Seventh, section 201 adds new subsection (g) to require the trustee to provide for the reasonable fees and costs incurred by a labor organization under section 1113, upon request and after notice and a hearing.

Eighth, section 201 adds new subsection (h) to require the assumption of a collective bargaining agreement to be done in accordance with section 365.

*Sec. 202. Payment of Insurance Benefits to Retired Employees.* Bankruptcy Code section 1114 sets out criteria pursuant to which a debtor may modify retiree benefits, among other matters. Retiree benefits include payments to retired employees, their spouses, and dependents for medical, surgical, and hospital care benefits. It also includes benefits in the event of sickness, accident, disability, or death under any plan, fund or program.

Section 202 amends section 1114 in several respects. First, it amends the provision's definition of "retiree benefits" to specify that

it applies whether or not the debtor asserts a right to unilaterally modify such benefits under such plan, fund or program.

Second, it amends Bankruptcy Code section 1114(b)(2), which specifies the rights, powers and duties of a committee of retired employees appointed by the court. As amended, the provision would apply to a labor organization serving as the authorized representative under section 1114(c)(1).

Third, section 202 replaces Bankruptcy Code section 1114(f), which requires a trustee to make a proposal to the authorized representative before seeking modification of retiree benefits. As amended, section 1114(f)(1) specifies that if a trustee seeks to modify retiree benefits, the trustee must provide notice of such proposed modification to the authorized representative as well as promptly provide the initial proposal. In addition, the trustee must thereafter confer in good faith with the labor organization, at reasonable times and for a reasonable period, given the complexity of the case, in attempting to reach a mutually satisfactory modification. Each modification must be based on a business plan for the reorganization of the debtor and reflect the most complete and reliable information available. The trustee must provide the authorized representative all information relevant for the negotiations. If such disclosure could compromise the debtor's position with respect to its competitors in the industry, the court may issue a protective order, subject to the needs of the authorized representative to evaluate the trustee's proposal and an application pursuant to subsection (g) or (h).

Modifications proposed by the trustee must: (1) only be proposed as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs; (2) be limited to modifications designed to achieve a specified aggregate financial contribution for the retiree group represented by the authorized representative (taking into consideration any labor cost savings negotiated within the 12-month period prior to the filing of the bankruptcy case with respect to the retiree group); (3) be no more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor; and (4) not be disproportionate or overly burden the retiree group, either in the amount of the cost savings sought from such group or the nature of the modifications.

Fourth, section 202 amends Bankruptcy Code section 1113(g) to provide that if the trustee and the authorized representative do not reach a mutually satisfactory agreement (after a period of negotiations) and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking to modify the payment of retiree benefits after notice and a hearing. Absent agreement of the parties, the hearing may not be held earlier than 21 days from when notice of the hearing is provided. Only the debtor and the authorized representative may appear and be heard at the hearing.

The court may grant a motion to modify the payment of retiree benefits only if the court: (1) finds that the trustee complied with the requirements of section 1114(f); (2) considered any of the authorized representative's alternative proposals and determined that such proposals do not meet the requirements of section 1114(f)(3)(B); (3) finds that further negotiations are not likely to produce a mutually satisfactory agreement; (4) finds that implementation of the trustee's proposal will not cause irreparable harm to

the affected retirees; and (5) concludes that, based on clear and convincing evidence, an order granting the trustee's proposal and its immediate implementation is essential to permit the debtor's exit from bankruptcy such that confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor in the short term.

If the trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants (or such program was implemented within 180 days before the bankruptcy case was filed), the court must presume that the debtor failed to satisfy the requirements of section 1114(f)(3)(C).

Fifth, section 202 strikes subsection (k) and makes conforming revisions.

*Sec. 203. Protection of Employee Benefits in a Sale of Assets.* Section 203 amends Bankruptcy Code section 363(b), which authorizes a debtor to sell or use property of the estate other than in the ordinary course of business (under certain circumstances), to add a new requirement. New section 365(b)(3) requires the court, in approving a sale, to consider the extent to which a bidder's offer: (1) maintains existing jobs; (2) preserves terms and conditions of employment, and (3) assumes or matches pension and retiree benefit obligations in determining whether such offer constitutes the highest or best offer for the property.

*Sec. 204. Claim for Pension Losses.* Section 204 adds a new subsection to Bankruptcy Code section 502, which pertains to the allowance of claims and interests. New subsection (l) requires the court to allow a claim by an active or retired participant (or by a labor organization representing such participants) in a defined benefit pension plan terminated under section 4041 or 4042 of the Employee Retirement Income Security Act of 1974 (ERISA) for any shortfall in pension benefits accrued as of the effective date of the pension plan's termination as a result of such termination and limitations upon the payment of benefits imposed pursuant to section 4042 of such Act, notwithstanding any claim asserted and collected by the Pension Benefit Guaranty Corporation with respect to such termination.

In addition, section 204 adds subsection (m) to Bankruptcy Code section 502 to require a court to allow a claim described in Bankruptcy Code section 101(5)(C) (as amended by this legislation) by an active or retired participant (or a labor union representing such participant) in a defined contribution plan (within the meaning of section 3(34) of ERISA). The amount of such claim must be measured by the market value of the stock at the time of contribution to, or purchase by, the plan and the value as of the commencement of the case.

*Sec. 205. Payments by Secured Lender.* Bankruptcy Code section 506(c) authorizes the debtor to recover from property securing an allowed secured claim the reasonable and necessary expenses incurred to preserve or dispose of such property to the extent the secured creditor benefits from such expenditures. Section 205 amends section 506(c) to add a new provision. As amended, section 506(c) deems unpaid wages, accrued vacation, severance or other benefits owed under the debtor's policies and practices or owed pursuant to a collective bargaining agreement, for services rendered on and after commencement of the case to be necessary costs and expenses of preserving or disposing of property securing an allowed secured claim. Such obligations must be recovered even if the trustee has otherwise waived the provisions of section 506(c) pursuant to an agreement with the allowed secured claimant or a successor or predecessor in interest.

*Sec. 206. Preservation of Jobs and Benefits.* Section 206 adds a statement of purpose to chapter 11 of the Bankruptcy Code specifying that a chapter 11 debtor must have as its principal purpose the reorganization of its business to preserve going concern value to the maximum extent possible through the productive use of its assets and the preservation of jobs that will sustain productive economic activity.

In addition, section 206 amends Bankruptcy Code section 1129(a), which sets out the criteria for confirming a plan, to add a new requirement. New section 1129(a)(17) requires the debtor to demonstrate that the reorganization preserves going concern value to the maximum extent possible through the productive use of the debtor's assets and preserves jobs that sustain productive economic activity.

Section 206 also amends Bankruptcy Code section 1129(c), which requires the court to consider the preferences of creditors and equity security holders in determining which plan to confirm. Section 1129(c), as amended, instead requires the court to consider the extent to which each plan would preserve going concern value through the productive use of the debtor's assets and the preservation of jobs that sustain productive economic activity. The court must confirm the plan that better serves such interests. It further provides that a plan that incorporates the terms of a settlement with a labor organization shall presumptively constitute the plan that satisfies this provision.

*Sec. 207. Termination of Exclusivity.* Bankruptcy Code section 1121, in pertinent part, gives a debtor the exclusive authority to file a plan and obtain acceptances of such plan for stated periods of time, under certain circumstances. Section 207 amends section 1121 to specify that cause for shortening these exclusive periods includes: (1) the filing of a motion pursuant to section 1113 seeking rejection of a collective bargaining agreement, if a plan based upon an alternative proposal by the labor organization is reasonably likely to be confirmed within a reasonable time; or (2) the proposed filing of a plan by a proponent other than the debtor, which incorporates the terms of a settlement with a labor organization, if such plan is reasonably likely to be confirmed within a reasonable time.

#### TITLE III—RESTRICTING EXECUTIVE COMPENSATION PROGRAMS

*Sec. 301. Executive Compensation Upon Exit From Bankruptcy.* Bankruptcy Code section 1129 specifies the criteria for confirmation of a chapter 11 plan. Section 1129(a)(4), for example, requires that certain services, costs and expenses in connection with the case (or in connection with the plan and incident to the case) to have either been approved by the court (or subject to approval by the court) as reasonable. Section 301 amends section 1129(a)(4) to add a requirement that payments or other distributions under the plan to or for the benefit of insiders, senior executive officers, and any of the 20 next most highly compensated employees or consultants providing services to the debtor may not be approved unless: (1) such compensation is subject to review under section 1129(a)(5), or (2) such compensation is included as part of a program of payments or distributions generally applicable to the debtor's employees and only to the extent that the court determines that such payments are not excessive or disproportionate as compared to distributions to the debtor's nonmanagement workforce.

In addition, section 301 amends section 1129(a)(5), which requires the plan proponent to disclose the identity and affiliations of the debtor's officers and others, such as the

identity of any insider who will be employed or retained by the reorganized debtor and such insider's compensation. Section 301 amends section 1129(a)(5) to add a requirement that such compensation must be approved (or subject to approval) by the court in accordance with the following criteria: (1) the compensation is reasonable when compared to that paid to individuals holding comparable positions at comparable companies in the same industry; and (2) the compensation is not disproportionate in light of economic concessions by the debtor's non-management workforce during the case.

**Sec. 302. Limitations on Executive Compensation Enhancements.** In general, Bankruptcy Code Section 503(c) prohibits a debtor from making certain payments to an insider, absent certain findings by the court. Section 302 amends section 503(c)(1), which prohibits such payments when they are intended to induce the insider to remain with the debtor's business, in several respects. First, it expands the provision so that it applies a debtor's senior executive officer and any of the debtor's 20 next most highly compensated employees or consultants. Second, it clarifies that the provision prohibits the payment of performance or incentive compensation, a bonus of any kind, and other financial returns designed to replace or enhance incentive, stock, or other compensation in effect prior to the commencement of the case. And, third, it specifies that the court's findings must be based on clear and convincing evidence in the record.

In addition, section 302 also amends Bankruptcy Code section 503(c)(3), which prohibits other transfers made or obligations incurred outside of the debtor's ordinary course of business and not justified by the facts and circumstances of the case, including transfers made and obligations incurred for the benefit of the debtor's officers, managers or consultants hired postpetition. Section 302 replaces section 503(c)(3) with a provision prohibiting other transfers or obligations incurred to or for the benefit of insiders, senior executive officers, managers or consultants providing services to the debtor unless they meet certain criteria. First, the court must find, based on clear and convincing evidence (without deference to the debtor's request for authorization to make such payments), that such payments are essential to the survival of the debtor's business or, in the case of a liquidation, essential to the orderly liquidation of the debtor's business and maximization of the value of the debtor's assets. Second, the services for which compensation is sought must be essential in nature. Third, such payments must be reasonable compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions made by the debtor's non-management workforce during the case.

**Sec. 303. Assumption of Executive Retirement Plans.** Section 303 amends Bankruptcy Code section 365, which sets forth the criteria pursuant to which executory contracts and unexpired leases may be assumed and rejected, to add two provisions. New subsection (q) provides that no deferred compensation arrangement for the benefit of a debtor's insiders, senior executive officers, or any of the 20 next most highly compensated employees may be assumed if a defined benefit pension plan for the debtor's employees has been terminated pursuant to section 4041 or 4042 of ERISA on or after the commencement of the case or within 180 days prior to the commencement of the case.

New subsection (r) provides that no plan, fund, program, or contract to provide retiree benefits for insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor may be as-

sumed if the debtor: (1) has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits; (2) has obtained relief under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of the debtor's active employees; or (3) or reduced or eliminated active employee or retiree benefits within 180 days prior to the commencement of the case.

**Sec. 304. Recovery of Executive Compensation.** Section 304 adds a new provision to the Bankruptcy Code. New section 563(a) provides that if a debtor reduces its contractual obligations under a collective bargaining agreement pursuant to section 1113(d), or retiree benefits pursuant to section 1114(g), then the court, as part of the order granting such relief, must make certain determinations. The court must determine the percentage of diminution in the value of the obligations as a result of such relief. In making this determination, the court must include any reduction in benefits as a result of the termination pursuant to section 4041 or 4042 of ERISA of a defined benefit plan administered by the debtor, or for which the debtor is a contributing employer, effective at any time within 180 days prior to the commencement of the case. The court may not take into consideration pension benefits paid or payable under title IV of ERISA as a result of such termination.

If a defined benefit pension plan administered by the debtor, or for which the debtor is a contributing employer, is terminated pursuant to section 4041 or 4042 of ERISA, effective at any time within 180 days prior to the commencement of the case, and the debtor has not obtained relief under section 1113(d), or section 1114(g), new section 563(b) requires the court, on motion of a party in interest, to determine the percentage in diminution in the value of benefit obligations when compared to the total benefit liabilities prior to such termination. The court may not take into account pension benefits paid or payable pursuant to title IV of ERISA as a result of such termination.

After such percentage diminution in value is determined, new section 563(c) provides that the estate has a claim for the return of the same percentage of the compensation paid, directly or indirectly (including any transfer to a self-settled trust or similar device, or to a nonqualified deferred compensation plan under section 409A(d)(1) of the Internal Revenue Code of 1986) to certain individuals. These individuals include: (1) any officer of the debtor serving as a member of the debtor's board of directors within the year before the filing of the case; and (2) any individual serving as chairman or as lead director of the board of directors at the time when relief under section 1113 or section 1114 is granted, or if no such relief has been granted, then the termination of the defined benefit plan.

New section 563(d) provides that a trustee or committee appointed pursuant to section 1102 may commence an action to recover such claims. If neither commences such action by the first date set for the confirmation hearing, any party in interest may apply to the court for authority to recover such claims for the benefit of the estate. The costs of recovery must be borne by the estate.

New section 563(e) prohibits the court from awarding postpetition compensation under section 503(c) or otherwise to any person subject to the provisions of section 563(c) if there is a reasonable likelihood that such compensation is intended to reimburse or replace compensation recovered by the estate pursuant to section 563.

**Sec. 305. Preferential Compensation Transfer.** Bankruptcy Code section 547 authorizes preferential transfers to be avoided. Section 305

adds a new subsection to section 547 to permit the avoidance of a transfer to or for the benefit of an insider (including an obligation incurred for the benefit of an insider under an employment contract) made in anticipation of bankruptcy. The provision also permits the avoidance of a transfer made in anticipation of a bankruptcy to a consultant who is formerly an insider and who is retained to provide services to an entity that becomes a debtor (including an obligation under a contract to provide services to such entity or to a debtor) made or incurred within one year before the filing of the bankruptcy case. In addition, new section 547(j) provides that no provision of section 547(c) (specifying certain exceptions to section 547) may be utilized as a defense. Further, section 547(j) permits the trustee or a committee to commence such avoidance action. If neither do so as of the date of the commencement of the confirmation hearing, any party in interest may apply to the court for authority to recover the claims for the benefit of the estate. The costs of recovery must be borne by the estate.

#### TITLE IV—OTHER PROVISIONS

**Sec. 401. Union Proof of Claim.** Section 401 amends Bankruptcy Code section 501(a) to permit a labor organization (in addition to a creditor or indenture trustee) to file a proof of claim.

**Sec. 402. Exception from Automatic Stay.** Section 402 amends Bankruptcy Code section 362(b) to create an additional exception to the automatic stay with respect to the commencement or continuation of a grievance, arbitration or similar dispute resolution proceeding established by a collective bargaining agreement that was or could have been commenced against the debtor before the filing of the bankruptcy case. The exception also applies to the payment or enforcement of awards or settlements of such proceeding.

#### CONGRATULATIONS TO WAYZATA HIGH SCHOOL SWIMMING AND DIVING

#### HON. ERIK PAULSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 6, 2015

Mr. PAULSEN. Mr. Speaker, today I rise to commend the Wayzata High School Girls' Swimming and Diving Team for winning the Minnesota State Championship.

The title was clinched at the University of Minnesota Aquatic Center with a well-rounded team effort that saw eight top-four finishes by the Elizabeth Hansen-coached Trojans.

Madison Priess led the way with an individual State Championship in the 200-yard Individual Medley. Wayzata also won the title in the 200 medley relay thanks to strong swims from Carly Quast, Alexis Schaaf, Colleen Donlin, and Madison—coming just short of setting a state record.

The title was Wayzata's second in a row and was due to the hard work these athletes put in everyday. Swimming takes a tremendous effort and practice in order to reach the goals that the Trojans accomplished this season. In addition to the hard work in the pool, these student-athletes have to balance their studies, family responsibilities, and social commitments as well. The Wayzata team took all that was asked of them in stride to reach the top of their sport. Family, friends, and fans should all be proud of their effort.

It is my pleasure to honor and congratulate the Wayzata Girls' Swimming and Diving team on bringing home another state title!